

**Michigan Department of Community Health
Healthy Homes Section**



**Pre-renovation Education (406b)
State of Michigan Self Certification**

STATE/TRIBAL PROGRAM

**PRE-RENOVATION EDUCATION
AUTHORIZATION**

TSCA Section 406 Pre-renovation Notification

State of Michigan Self Certification Authorization Request

Contact Name: Wesley F. Priem

Agency: Michigan Department of Community Health

Title: Section Manager 15
Healthy Homes Section

Address: Capitol View Building
201 Townsend Street
Lansing, MI 48913

Phone: 517-335-9390

Fax: 517-335-8800

E-mail: priemw@michigan.gov

Table of Contents

1. Letter from the Governor of Michigan
2. Summary of the State Program
3. Description of the Michigan Program
4. Letter from the Attorney General of Michigan
5. Record of public notice and public hearing
6. Compliance Operations Manual (with Lead Abatement Act and Hazard Control Rules)
7. Crosswalk
8. Organization chart for the Michigan Healthy Homes Section

Section 1

Governor's Letter



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
L.T. GOVERNOR

June 19, 2008

Mr. Bharat Mathur
Regional Administrator
U.S. EPA, Region 5
77 W. Jackson Blvd.
Chicago, IL 60604-3590

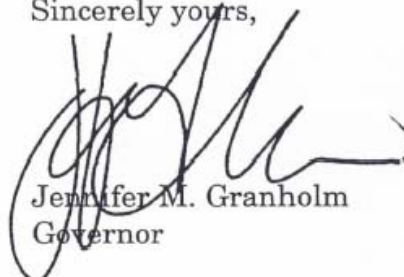
Dear Mr. Mather:

RE: Self-Certification of the Michigan Lead Pre-Renovation Education
and Enforcement Program under Section 404(a) of the Toxic
Substance Control Act

Enclosed please find the request for self-certification of the lead pre-renovation education and enforcement program for the state of Michigan. This submittal is in accordance with Section 404(a) of the Toxic Substance Control Act, as amended. It contains the provisions necessary to implement an effective program that will be as protective as the EPA requirements.

Any questions regarding this application should be directed to Ms. Janet D. Olszewski, Director, Michigan Department of Community Health, Capitol View Building, 201 Townsend Street, Lansing, Michigan 48913.

Sincerely yours,



Jennifer M. Granholm
Governor

Enclosure

Section 2

Program Summary

Michigan Department of Community Health
Lead Pre-Renovation Education and Enforcement Program

PROGRAM SUMMARY

Michigan Public Health Code, Act No. 368 of the Public Acts of 1978 assigns to the Michigan Department of Community Health (MDCH), among other responsibilities, the continuous and diligent endeavor to prevent disease, prolong life, and promote the public health through organized programs, including *prevention and control of environmental health hazards*; prevention and control of diseases; prevention and control of health problems of particularly vulnerable population groups. In carrying out its responsibility, the department shall:

- a) Have general supervision of the interests of the health and life of the people of the state.
- b) Implement and enforce laws for which responsibility is vested in the department.
- c) Make investigations and inquiries as to the causes, prevention and control of environmental health hazards, nuisances and sources of illness.

The department may exercise authority and promulgate rules to properly safeguard the public health; to prevent the spread of diseases and *the existence of sources of contamination*; and to implement and carry out the powers of and duties vested by law in the department. To assure compliance with laws enforced by the department, the department may inspect, investigate, or authorize inspections and investigations to be made.

The Michigan Department of Community Health currently administers and enforces the requirements established by 40 CFR 745, Subpart L, as authorized by the U.S. Environmental Protection Agency, effective November 1, 1999. The resources, policies, procedures, and regulations which were approved for the lead training and certification program authorization are reviewed herein, with additions and modifications to administer the requirements of Subpart E.

In 1998, the Michigan legislature passed the Lead Abatement Act, being sections 5451 to 5477, of Public Act 368 of 1978, enabling administration of programs to address lead-based paint hazards. Pursuant to provisions of the Lead Abatement Act, administrative rules R325.99101 to 325.99408 were promulgated in 1999, and revised in 2005, to regulate activities and work practices with respect to lead-based paint. The Michigan Department of Community Health, Public Health Administration's Lead & Healthy Homes Section (LHHS), is the recognized agency for the administration of those lead hazard control regulations. These regulations ensure that persons engaged in lead-based paint (LBP) activities perform them in a safe manner to prevent exposure of building occupants to lead hazards, as well as provide awareness of potential lead-based paint hazards through distribution of educational materials. Individuals conducting LBP inspections, risk assessments and abatements in target housing and child-occupied facilities are required to be properly trained and certified.

Michigan lead hazard remediation regulations also require the accreditation of training providers, establish a lead poisoning education and prevention program, establish work practice standards for LBP activities, define rights and duties of regulated persons, and prescribe enforcement actions and noncompliance remedies.

All persons providing training in lead-based paint identification and abatement must be accredited. Accreditation of the training program is contingent upon the training program employing a training manager who meets the qualifications set forth in the promulgated rules. Training courses must include designated curricula for respective disciplines, and maintenance of records.

Lead professionals such as inspectors, risk assessors, supervisors and abatement workers must be certified. Individuals seeking certification or re-certification shall successfully complete an accredited training course in the appropriate discipline, pass a third party certification examination within 6 months of course completion, and meet the appropriate experience and education requirements for each discipline.

Work practice standards for conducting lead-based paint activities such as an inspection, lead-hazard screen, risk assessment or abatement have been established by statute and promulgated rules. These activities may only be performed by certified individuals in accordance with documented methodologies. Any person disturbing painted surfaces by performing renovation for compensation in target housing or child-occupied facilities must provide education materials to affected persons.

In response to the federal Pre-Renovation Education (PRE) Program information disclosure requirements, the State of Michigan in the Lead Hazard Control Rules states in R 325.99408(6)(a) that the person performing renovation for compensation must:

“Provide the owner of the dwelling or facility with the EPA’s pamphlet number EPA 747-K-99-001, entitled “Protect Your Family From Lead in Your Home,” or a true reproduction of the EPA pamphlet, or an equivalent pamphlet approved by the department. If the owner does not occupy the dwelling unit, then the person performing renovation shall also provide an adult occupant of the housing unit with the EPA pamphlet.

At this time Michigan is not developing a pamphlet and will continue to use the EPA’s pamphlet.

In areas where the Michigan Lead Abatement Act and the Lead Administrative Rules are not as protective as the EPA regulations the LHHS will begin the process within the next year to modify our Statute and Rules to be in compliance with the EPA.

Authority for enforcement actions is established for the Michigan Department of Community Health under sections 5466(1), 5473a(1), 5475(2) and 5476(2) and 5477 of the Lead Abatement Act, being §§333.5466, 333.5473a, 333.5475, and 333.5476 of the Michigan Compiled Laws, and Rule 325.99104.

Section 3

Program Description

Program Description

Michigan Lead Pre-Renovation Education and Enforcement Program

Agency Name and Contact Person

The Michigan Department of Community Health (MDCH) is the sole state agency responsible for the Michigan lead pre-renovation education and enforcement program. The person named below is the point of contact for the Department.

Wesley F. Priem
Manager
Lead & Healthy Homes Section
Public Health Administration
Michigan Department of Community Health
Capitol View Building, 201 Townsend Street
Lansing, Michigan 48913

Mailing Address:
P.O. Box 30195
Lansing, Michigan 48909

(517)335-9390
(517)335-8800 (fax)
priemw@michigan.gov

Program Infrastructure

Michigan Public Health Code, being Act No. 368 of the Public Acts of 1978, as revised, assigns to the Michigan Department of Community Health, among other responsibilities, the continuous and diligent endeavor to prevent disease, prolong life, and promote public health through organized programs, including prevention and control of environmental health hazards; prevention and control of diseases; and prevention and control of health problems of particularly vulnerable population groups. In carrying out its responsibility, the MDCH shall:

- a) Have general supervision of the interests of the health and life of the people of the state;
- b) Implement and enforce laws for which responsibility is vested in the department; and
- c) Make investigations and inquiries as to the causes, prevention and control of environmental health hazards, nuisances and sources of illness.

The department may exercise authority and promulgate rules to safeguard properly the public's health; to prevent the spread of diseases and the existence of sources of contamination; and to implement and carry out the powers and duties vested by law in the department. To assure compliance with laws enforced by the department, the department may inspect, investigate, or authorize the inspection and investigation to be made.

Section 333.5474 of the Michigan Compiled Laws directs MDCH to establish a lead poisoning prevention program that consists of the following components:

1. A coordinated and comprehensive plan to prevent childhood lead poisoning and to minimize the exposure of the general public to lead-based paint hazards;
2. A comprehensive educational and community outreach program regarding lead poisoning prevention that includes the development of appropriate educational materials targeted to a variety of audiences;
3. A technical assistance system for health care providers to assist them in managing cases of childhood lead poisoning; and
4. An annual report to the legislature.

The Lead Abatement Act, being sections 333.5451 to 333.5477 of Public Act 368 of 1978, as amended, provides legislative authority to MDCH to address lead-based paint hazards. MDCH is also the agency responsible for promulgation and administration of administrative rules which ensure that persons engaged in lead-based paint (LBP) activities perform them in a manner to prevent exposure of building occupants to hazardous levels of lead. These rules, being R325.99101 to 325.99408, require that individuals conducting lead-based paint inspections, risk assessments and hazard control activities in target housing and child-occupied facilities demonstrate adequate training and knowledge of lead-safe work practice standards through accredited training and testing for certification. Rules also provide for the regulation of persons providing training in lead-based paint activities, establish work practice standards for LBP activities, require that any person performing renovation for compensation in target housing must provide education materials (Michigan uses the EPA pamphlet "Protect Your Family from Lead in Your Home"), to affected persons, define rights and duties of affected persons, prescribe enforcement actions and penalties, and provide remedies regulated persons.

The Lead Hazard Remediation Program was established in 1996 within the Division of Community Services to administer Michigan's lead training and certification program. In 2001, the Program was reorganized into the Division of Environmental & Occupational Epidemiology. In 2005, it was renamed the Lead & Healthy Homes Section (LHHS), to reflect expanded responsibilities. The program is responsible for certification of persons who supervise, perform or offer to perform lead-based paint activities, accreditation of the training programs, and enforcement of certification, accreditation, pre-renovation education, and work practice regulations. LHHS is supported by funding from the U.S. Environmental Protection Agency (EPA), and U.S. Department of Housing and Urban Development (HUD); as well as certification, accreditation and penalty fees.

LHHS staff will administer and enforce the lead pre-renovation education and enforcement program. Please refer to the organization chart in this section. The following is a delineation of

staff, their percentages of time expected to be committed to the program, and primary responsibilities:

Pre-Renovation: State and Tribal program requirements

§745.324(2)(i) states that all the elements of “§745.325, §745.326, or both,” must be provided for in the description of the program. Michigan already has an approved Lead-based Paint Activities Program, so that will not be addressed here. Following are the program requirements requested in §745.326.

Program Elements

745.326(a)(1) - Procedures and requirements for distribution of lead hazard information before renovation.

In the Michigan Lead Abatement Act - MCL 333.5473a (1),(2) authorization is given to “promulgate rules as may be necessary” (1), and “coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers, of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.” (2).

In the Michigan Lead Hazard Control Rules R325.99408(6),(7) the rules concerning “Procedures and requirements for distribution of lead hazard information.” are detailed.

745.326(a)(2) - An approved pamphlet

Michigan will use the EPA pamphlet “Protect Your Family from Lead in Your Home” as the document to be handed out for occupant education. The Michigan Lead Hazard Control Rules R325.99408(6)(a) details that Michigan will use the EPA pamphlet number EPA 747-K-99-001 entitled “Protect Your Family From Lead In Your Home.” Michigan has retained the right to develop a pamphlet, but is not pursuing that at this time.

Program to distribute lead information

745.326(b)(1) - Clear standards for identifying home improvement activities that trigger distribution of the pamphlet.

In the Michigan Lead Hazard Control Rules R325.99408(6)(a) it states that a person performing a renovation activity for compensation in target housing or child occupied facilities must provide the owner with the EPA pamphlet; or if the owner doesn’t occupy the unit then the tenant should also get a copy of the pamphlet. Target Housing is defined in The Lead Abatement Act §333.5460(1). Child Occupied Facility is defined at §333.5454(8). Renovation is defined in the Lead Hazard Control Rules R325.99102(d).

745.326(b)(2) - Procedures for distributing the lead hazard information.

Michigan Lead Hazard Control Rules R325.99408(6)(7) details when and how the pamphlet needs to be distributed, as well as what needs to be done to document having received the pamphlet.

Distribution of acceptable lead hazard information

745.326(c)(1) - Distribute the EPA's lead hazard information pamphlet.

Michigan Lead Hazard Control Rules R325.99408(6)(a) states we will use the EPA pamphlet number EPA 747-K-99-001 entitled "Protect Your Family From Lead In Your Home."

745.326(c)(2) - Or distribute alternate lead hazard information pamphlet.

Michigan is using the EPA's pamphlet, so has not developed an alternate pamphlet, but maintains the right to develop one in the future; pending EPA's approval of a Michigan pamphlet.

Enforcement

§745.324(3) requires that the State or Tribal program demonstrate adequate ability to enforce the program. Following are the descriptive elements and citations that show we have sufficient enforcement capabilities.

§745.327(b)(2)(ii)(iii) *Authority to Enter*

Under the Michigan Compiled Law (MCL) §333.2241 of Act 368 of 1978, as amended State officials have the authority to enter a renovator's place of business to take samples, review work practices, and review records to determine compliance.

§745.327(b)(3) *Flexible Remedies*

The Michigan Lead Hazard Control Rules specify in R325.99104(1)(2) that Michigan has a "...diverse and flexible array of enforcement remedies." Remedies include Notice of Noncompliance, Citation, Denial of certification, Suspension of certification by cease operation orders, Summary suspension, Revocation of certification, Criminal sanctions, and Administrative fines.

§745.327(b)(4) *Adequate Resources*

MCL 333.5473 declares that the "legislature shall annually appropriate to the department an amount sufficient to administer and enforce this part." and concludes with "Such activities include, but are not limited to, unannounced inspections of lead abatement project sites." Also we receive funding from the EPA Region 5.

Personnel for enforcing the Pre-renovation rule.

- C **Division Director - 5%**, David R. Wade, PhD - As Director of the Division of Environmental & Occupational Epidemiology, Dr. Wade has 15 years experience in coordinating and administering programs in the fields of public health and toxicology. He is a strong advocate in lead poisoning prevention policy, having played a key role in the promulgation of state rules and administration of EPA and HUD lead-paint hazard control grants. Dr. Wade will continue to hold inter-agency resource group meetings to maintain and monitor the program goals and objectives and to address administrative issues related to LHHS.
- C **Section Manager - 10%**, Wesley Priem - Mr. Priem's responsibilities include management of the lead training and certification program; directing lead hazard control and abatement efforts; supervising the LHHS staff; directing the development and implementation of policies and procedures; consulting on enforcement activities; and coordinating activities with the Michigan Department of Consumer & Industry Services (MIOSHA), Michigan State Housing Development Authority, Michigan Department of Environmental Quality, lead professionals, abatement firms, and local health departments.
- C **Training and Education Specialist - 20%**, Jay Wagar - Mr. Wagar performs enforcement functions to ensure that accreditation requirements are met and lead activities adhere to state and federal rules and guidelines. Mr. Wagar also promotes training education, provides outreach to a variety of organizations, and acts as webmaster for the HHS website.
- **Program Assistant - 5%**, Sonya Adams - Ms Adams processes lead certification and accreditation applications; performs file and data base maintenance functions; helps with certification exams; and provides other support for the Healthy Homes Section.
- C **Compliance Officer - 30%**, Daniel Lince - Mr. Lince serves as review analyst and on-site investigator of lead hazard control contractors and regulated project activities.
- C **Secretary - 10%**, Leslie Jaquette - Ms Jaquette provides administrative and secretarial support for all LHHS staff and related functions.
- C **Compliance Assistant - 30%**, Vacant, pending hire - This position would assist in the compliance and enforcement efforts of the Healthy Homes Section.

Performance Elements

§745.327(c)(1) - Training

Enforcement personnel are trained and certified as Lead Supervisors, Inspectors, and Risk Assessors to give them the necessary knowledge and information to perform compliance and enforcement responsibilities.

On the job training, development and use of Compliance Manual, & development of Penalty Matrix are other aspects of the enforcement person's education.

§745.327(c)(2) - Compliance Assistance

MCL 333.5473a states the department shall “authorize, coordinate, and conduct programs to educate persons...” Michigan has developed a compliance manual (section – of this application package). In the Compliance Manual under Compliance Assistance it says:

The Healthy Homes Section provides the regulated community with information necessary to ensure compliance with the Lead Abatement Act and associated rules administered by this program to protect the health, safety and welfare of State citizens, as follows;

1. A summary of rules impacting certified individuals is included in certification and accreditation application packets.
2. Provide consultant reviews of first-time risk assessments and abatement reports.
3. A packet of pertinent regulatory information is included with Notices of Non-compliance and notices of enforcement actions.
4. Information about revised regulations is made available to certified lead professionals and firms as soon as possible after a revision becomes effective.
5. Annual training provider workshops are held to update them on regulations, new technology and research results and to advise them of problem areas identified through enforcement actions, inquiries, or certification examination results. Providers should cover this information in refresher courses, as appropriate, and revise and update their initial courses to incorporate new information.
6. Training and technical assistance is provided to local health agencies through monthly meetings.
7. Participate in the annual state lead week activities.
8. Outreach and compliance materials distributed as follows:
 - In response to inquiries from the public and regulated community; Information Request form, DCH-668
 - At professional conferences, trade shows, home shows, etc.
 - In conjunction with staff presentations.
9. Speak at professional and trade meetings, conferences, etc.
10. Promptly respond to phone calls and written inquiries.
11. Publication and distribution of annual program update.
12. Maintenance of HHS web site.

§745.327(c)(3) - Sampling Techniques

Bureau of Laboratories administers the Lead Laboratory, located within the Division of Chemistry and Toxicology. The Lead Laboratory has been analyzing samples for over 20 years and is committed to maintaining federal proficiency through enrollment in the American Industrial Hygiene Association's Program and EPA's Certification Program. The Lead Laboratory is approved by the Occupational Safety and Health Administration to perform blood lead analysis. It uses the HUD analytical protocols for environmental samples. The Lead Laboratory possesses a Laboratory Information Management System (LIMS) containing a database of submitter and patient information and test results.

HHS compliance personnel are trained as Inspector/Risk Assessors by approved training providers. They are taught approved methods and techniques for sampling for lead on painted surfaces and in dust, soil, and water. They must take appropriate refresher classes when necessary and maintain their certification

§745.327(c)(4) - Tracking Tips and Complaints

Tips and complaints again are handled in the Compliance Manual where it states:

Tips and complaints are recorded and investigated according to their chronological receipt, nature, and potential for human or environmental health hazards.

A staff person receiving a tip or complaint may send a complaint form (DCH-655) to the complainant, or the staff person may complete the complaint form from the complainant's call, if the nature of the complaint allows. Staff shall not guarantee that an informant's identity will be withheld or otherwise protected. Such information may be made available through a Freedom of Information Act (FOIA) request.

- 1 The complaint information will be entered into the data management system.
- 2 The Compliance Specialist will review the tip or complaint and determine the need for further action. These include, but are not limited to:
 - Referral of the complaint to another agency.
 - Formal investigation of the allegations.
 - On-site inspection of the regulated activity site.
 - Preparation and mailing of a formal Letter of Inquiry, potentially including a request for company reports and records for audit.
- 3 The Compliance Specialist will assign the complaint for further action, as appropriate.
- 4 A copy of the written investigation report will be sent to the complainant upon completion of an investigation, if any.

§745.327(c)(5) - Targeting Inspections

Field Investigations of Certified Persons & Lead Work Practices

Investigations are conducted as a result of tips/complaints or initiated from target programming criteria. A minimum of two programmed inspections will be conducted per month. When combined with investigations of tips and complaints, compliance staff will attempt to inspect each certified company that is actively performing lead-based paint services at least once every year.

Programmed investigations will be based on the following criteria:

- Notices of noncompliance issued from the previous year.
- Tips or complaints received from the previous year.
- Notifications of lead abatement activities received.
- Reports of LBP Identification Activities submitted. Lead inspection and risk assessment activities are randomly selected from the monthly reports and records reviewed.

Field Audits - Lead Identification Professionals

HHS Compliance staff will routinely conduct over-the-shoulder field audits with professionals in lead identification disciplines (Clearance Technicians, Inspectors, Risk Assessors, EBL-Endorsed Investigators). These audits are a real-time evaluation of a professional's compliance with documented methodologies and work practice standards. Enforcement actions may be taken for non-compliance, in accordance with the authorities cited above.

Compliance Audits - LBP Regulated Reports

Compliance audits of risk assessment, lead inspection, EBL environmental investigation, and clearance examination reports will be routinely conducted to determine compliance with work practice standards and regulatory requirements. These audits will not directly involve the certified professional who authored the report, but will be conducted after the report has been prepared, but before substantial hazard control work occurs as a result of it.

§745.327(c)(6) - Follow Up to Inspection Reports

The compliance field investigator may initiate or will be assigned an investigation (or case), as a result of direction from program management. The investigation will be assigned a reference number in the following format: 2-digit year, 2-digit sequential number of case for the year, letter of regulated person type (**C**ontractor, **P**rofessional, **T**rainer), HHS certification/accreditation number. Therefor, as an example, case number 0314C-045 would represent the 14th case for year 2003, relating to the contractor with HHS certification no.045.

The investigator will review all applicable documents and case files for historical actions. In the case of an inspection, the investigator will prepare to visit the regulated activity site and/or the regulated person's place of business.

In the case of an on-site field inspection;

1. The investigator will contact an authorized company representative upon entering the site, and present appropriate credentials.

2. An opening conference will be held with the company representative(s) to discuss the purpose, scope, and nature of the investigation.
3. The investigation shall consist of any of the following, as determined appropriate by the field investigator:
 - On-site verification of valid certification card(s) for all individuals performing lead-related activities.
 - On-site compliance evaluation of lead-related work practices.
 - Review of company records, including those which must be retained for work practice standards.
 - Selected aspects of occupational health and safety requirements should be reviewed. Documentable violations will be referred to the Michigan Department of Consumer and Industry Services, Bureau of Safety & Regulation for further action.
4. All pertinent investigation information will be entered on the compliance worksheet (DCH-649).
5. The investigator will review the findings of the investigation with an authorized company representative at the conclusion of the investigation during a closing conference. Violations may be addressed at the time of the conference as 'alleged', and possible outcomes discussed. Compliance field staff shall not indicate specific enforcement actions resulting from the investigation, unless they have identified imminent danger, or other conditions at the site which warrant immediate action, including cessation of operations.
6. If the field investigator determines imminent danger conditions at the site during the investigation, the investigator will immediately issue a stop-work order for lead-based paint operations at that site, and contact the program manager.

Upon completion of the investigation, any alleged violations which have been documented on the compliance worksheet will be categorized by the investigator, using the enforcement actions matrix (DCH-683) as a guide. If the specific violation type is not identified in the matrix, the specific enforcement action will be determined by discussion with program management.

If the proposed enforcement action is a citation, the investigator will complete the appropriate citation worksheet (DCH-657) including calculation of the administrative fine.

The investigator will prepare a written summary of the investigation and findings, and submit to program management for review. The summary will include any enforcement action notices, as appropriate, and will be sent to the investigated party.

Followup investigations will be conducted based on staffing, and the following priorities:

- corrective actions required from investigation of a child with elevated blood lead levels.
- corrective actions required from willful or repeated violations.
- corrective actions required from serious violations.
- a random selection of actions required from non-serious violations.

Staff shall not discuss the potential outcome of an investigation with outside sources. Legal counsel or management must authorize any discussion of an open investigation.

§745.327(c)(7) - Compliance Monitoring and Enforcement

§745.327(d) - Summary on Progress and Performance

Organizational Capacity

Bureau of Community Living, Child, and Families works closely with HHS to accomplish lead screening and prevention. This is accomplished by the Childhood Lead Poisoning Prevention Project (CLPPP). CLPPP's goals are to assure the delivery of comprehensive services to children with elevated blood levels; to assure the use of standardized educational screening, medical, nursing, and environmental management protocols statewide; and to decrease the risk factors for children living in residences identified as high risk for lead hazards through the establishment of community-based primary prevention projects. CLPPP staff attend the HHS subgrantee meetings and work closely with HHS staff.

Bureau of Laboratories administers the Lead Laboratory, located within the Division of Chemistry and Toxicology. The Lead Laboratory has been analyzing samples for over 20 years and is committed to maintaining federal proficiency through enrollment in the American Industrial Hygiene Association's Program and EPA's Certification Program. The Lead Laboratory is approved by the Occupational Safety and Health Administration to perform blood lead analysis. It uses the HUD analytical protocols for environmental samples. The Lead Laboratory possesses a Laboratory Information Management System (LIMS) containing a database of submitter and patient information and test results.

Interagency Coordination

Section 333.5474a of the Michigan Lead Abatement Act established the interagency Childhood Lead Poisoning Prevention and Control Commission to study the environmental threats of lead poisoning to children's health, review the state's lead poisoning prevention program, evaluate the effectiveness of that program, including, but not limited to, the ability of the program to satisfy federal law requirements that 100% of all young children enrolled in medicaid shall be screened with a blood lead test, and make recommendations for improvements to that program. This Commission consists of nine gubernatorial appointees who represent affected State agencies, non-profit organizations, and the general public.

HHS maintains a working relationship with the Michigan Department of Labor and Economic Growth (DLEG), Construction Health & Safety Division (CHSD). CHSD is committed to performing random unannounced Michigan Occupational Safety and Health Act (MIOSHA) compliance investigations of all employers, including lead hazard remediation contractors, to ensure compliance with Michigan standards. These investigations review work practices that regulate the health and safety of workers and the work environment. Compliance staff is knowledgeable of lead poisoning effects on building occupants and addresses housekeeping practices required in the MIOSHA Lead Construction Industry Standards. Contractors who fail to conduct work practices in compliance with applicable MIOSHA standards receive citations and penalties. A referral system between DLEG and MDCH has been established to mutual identification of lead-based paint related issues.

HHS staff also benefits from technical assistance and support of the Michigan State Housing Development Authority (MSHDA) within MDLEG. HHS also works with the Michigan Department of Human Services (DHS, formerly Family Independence Agency). DHS provides social services to families in need and sponsors a home

weatherization program. Additionally, HHS works closely with the Michigan Department of Environmental Quality to address issues of lead waste disposal.

HHS and CLPPP established the Childhood Lead Poisoning Prevention Advisory Committee to provide direction and guidance to the program. This committee meets on a quarterly schedule to identify, discuss and resolve issues relative to the program and other lead issues. Participants represent statewide organizations in the health, real estate, housing, environmental, child advocacy, and lead industry fields.

Fifteen local health agencies in urban and rural jurisdictions receive federal or state funds from MDCH and HUD for development of childhood lead poisoning prevention programs and/or lead hazard control programs.

Section 4

Attorney General's Letter

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

P.O. Box 30758
LANSING, MICHIGAN 48909

June 18, 2008

Mr. Bharat Mathur
Acting Director
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Re: Authority to Administer the Michigan Lead Pre-Renovation Education Program
Pursuant to Section 404(a) of the Toxic Substance Control Act

Dear Mr. Mathur:

I hereby certify pursuant to my authority as Attorney General of the State of Michigan, and in accordance with Section 404(a) of the Toxic Substance Control Act and 40 CFR 745.324(d) that:

- a) The enclosed application submitted by the Michigan Department of Community Health for administration of the lead pre-renovation education program comports with both the federal and state laws governing the regulations of lead contamination, and
- b) The lead pre-renovation education program described herein is at least as protective of human health and the environment as the corresponding Federal program established under 40 CFR 745, Subpart E, and regulations pursuant to section 406 of the Toxic Substance Control Act.

The specific authorities described are contained in statutes lawfully adopted, and known as the Michigan Lead Abatement Act, MCL 333.5451 through 333.5477, together with implementing administrative rules R325.99101 through R325.99409, and are effective at the time of this correspondence,. These do not assert specific jurisdiction over tribal lands contained within the State of Michigan.

Very truly yours,

Michael A. Cox
Attorney General

Section 5

Notice of Public Hearing



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JANET OLSZEWSKI
DIRECTOR

Regarding Public Notice to Seek Self-Authorization

On January 30, 2006 a notice was published, and then again on February 27, 2006 a corrected notice was published regarding the State of Michigan to seek 406(b) self certification. On February 17, 2006 a public hearing was held in Michigan regarding self-certification for "Lead Requirements for Hazard Education Before Renovation of Target Housing – Pursuant to Section 406(b) of Title IV of the Toxic Substances Control Act (TSCA)". A variety of factors arose that caused the application process to pause. Michigan is now going forth with the self-certification process.

We were informed that we would not need to publicize again regarding our application. If that information was incorrect please let us know. A copy of the corrected public notice and a copy of the public hearing notes are included.

CAPITOL VIEW BUILDING • 201 TOWNSEND STREET • LANSING, MICHIGAN 48913
www.michigan.gov • (517) 373-3740

Printed by members of:



Section 6 a

406b

Compliance Manual

COMPLIANCE OPERATIONS MANUAL

Table of Contents

Section I - Compliance Policies

Enforcement authorities.....	1
Definitions.....	3
Tips and Complaints.....	4
Field investigations.....	5
Training accreditation audits	6
Sampling and laboratory analysis	7
Standard compliance case development	8
Statutory authority for enforcement actions.....	10

Compliance responses

Letter of Inquiry.....	11
Notice of Non-compliance, citation.....	12
Denial, suspension of certifications, etc	13
Revocation of certifications.....	14
Multiple enforcement actions.....	14
Criminal sanctions.....	14
Enforcement actions against whom.....	15
Administrative fines.....	16
Appeals.....	18
Compliance assistance.....	19

COMPLIANCE FORMS

HHS Investigation checklist	
Alleged hazard complaint form	DCH-0655
Contractor compliance worksheet....	DCH-0649C
Field Audit-Risk Assessment.....	DCH-0649RA
Field Audit-Inspector	DCH-0649IN
Field Audit-Clearances	DCH-0649CL
Trainer compliance worksheet.....	DCH-0649T
Contact sheet	
Citation worksheet	DCH-0657
Case Closure	
Enforcement actions matrix.....	DCH-0683
Gravity-based penalty matrix	DCH-0684
Penalty matrix.....	DCH-0684
SAVES listing.....	pp 1-8
Accept/Appeals form	DCH-127(E)
Administrative Settlement form.....	DCH-1246(E)
LBP ID reporting form.....	DCH-0694
Abatement notification form.....	DCH-0654
Abatement notification Fact sheet	

Enforcement Action forms

Citation form	DCH-0681
Letter of Inquiry (standard format)	
Notice of Non-compliance letter.....	DCH-0656
Notice of Citation letter	DCH-0630

Notice of Site Suspension of Regulated Activities (stop-work order).....	DCH-0653
Notice of Summary Suspension of Certification/accreditation	DCH-0653a
Notice of Certification Revocation.....	DCH-0653b

Section II - Regulations

Lead Abatement Act.....	part 1, page 1
Lead Hazard Control rules	part 2, page 1

Section III - MDCH Administrative Hearings Policies

Appendix A

Guidance documents

- Operating procedures for entering LBP work sites
- Inspector & Risk Assessor certification, initial and recertification
- Third-party cleaning of abatement sites
- Worker & Supervisor courses
- Actions to be taken against regulated persons who fail to respond to citations
 - HHS authority on federally owned properties
 - HHS authority involving HUD part 35 regulations

Enforcement Authorities

Authority for enforcement actions is established for the Department of Community Health (the Department) under sections 5466, 5475, 5476, and 5477 of the [Michigan] Lead Abatement Act (being '333.5451 to '333.5477 of the Michigan Compiled Laws) and under Rule R325.99104.

1. **§§333.5476, 333.5477(1), R325.99104(1).** The Department may initiate an action in the name of the State against any affected person to require compliance.
2. Administration of the enforcement authority cited above has been charged to the Lead and Healthy Homes Section (HHS) of the Division of Environmental & Occupational Epidemiology, by the Department.
3. **§333.5475(2).** Whenever the Department is advised or has reason to believe that any person is in violation of pertinent lead-based paint regulations, an investigation may be conducted by the Department.
4. **§333.2241 of Act 368 of 1978, as amended.** An authorized representative of the Department may enter a dwelling, child-occupied facility, or real estate property where regulated activity is being or has been conducted, or where a regulated person conducts business to conduct an investigation. The representative may conduct tests, take samples, review work practices, review records, and perform other activities necessary to determine compliance. An authorized representative of the Department may enter and conduct an investigation if that representative presents a valid identification issued by the Department, and if that representative is complying with personal protection requirements. No person may obstruct, hamper or interfere with the actions of that representative.
5. At the beginning of an on-site visit, persons conducting a compliance investigation shall present identification and any authorization issued by the Department, and shall comply with applicable health and safety procedures established by law.
6. **§333.5476(2).** If the department has reasonable cause to believe that a person has violated the Lead Abatement Act or associated administrative rules, the Department may issue a citation at that time or not later than 180 days after discovery of the alleged violation and impose administrative penalties.
7. **R325.99104(1).** An authorized representative of the Department may issue an immediate written cease-work order or directive to any person who violates the terms or conditions of a certification if, in the best judgement of the investigator, the violation presents a clear and significant health risk to any occupant or other individual at the lead-based paint activity site. The cease-work order shall remain in effect until the violation is corrected, as determined by the Department.
8. Any suspension of certification or accreditation shall remain in effect for not more than 72 hours from the time of issuance, before which time the Department will determine the appropriate course of action to best serve the interests of the residents of the State.
9. **§333.5466(2).** In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations for purposes of this section.
10. Any other state agency in the course of the performance of its duties may evaluate compliance with the Act and/or associated rules. If that agency determines that a potential violation exists, it shall notify the Department of that potential violation through a referral process. The Department may delegate any part of its enforcement authority to any other state agency through a memorandum of understanding.
11. **§333.5463(10).** An accredited training program shall permit an authorized representative of the Lead & Healthy Homes Section to conduct an audit for the purpose of ascertaining whether or not an accredited training course continues to meet requirements for accreditation.

Enforcement Authorities (cont)

12. The Department will contact EPA regarding complaints or investigations involving the Federal government, and offer assistance when able.
13. Under EPA regulations, either EPA or an approved tribal program will enforce lead-based paint regulations in Indian Country. HHS staff, after consultation with management, will contact the tribal liaison or EPA, as appropriate, regarding potential complaints or investigations involving Indian Country. When staffing levels allow, staff may assist EPA in investigations, if assistance is requested.

Definitions

The following definitions will apply to this enforcement policy manual;

Act or Lead Abatement Act - Part 54A of Public Act 368 of 1978, being MCL 333.5451-333.5477; as amended by Acts No. 219 & 220 of 1998, Act No. 644 of 2002, and Acts No. 400, 431, 432, 433, 434 of 2004.

Citation - The written notice of a finding of violation of one or more requirements of the Lead Abatement Act, or rules promulgated pursuant to the Act.

Department - The Michigan Department of Community Health

Egregious violation - Practices, processes or conditions which flagrantly violate the requirements of the Lead Abatement Act, or rules promulgated pursuant to the act. In general, an egregious violation will meet one of the following criteria:

1. The responsible party was aware of lead-based paint regulations, but did not comply.
2. The responsible party was not aware of the lead-based paint regulations, but knew that the dwelling or building contains lead-based paint or lead-based paint hazards, and was aware of other regulations concerning lead-based paint (such as OSHA's lead in construction standard), and did not comply with the known regulations.
3. The responsible party failed to comply with the Lead Abatement Act or corresponding rules, the dwelling or building contained lead-based paint or lead-based hazards, and a child under 6 years of age or a pregnant woman who occupied the dwelling or building had elevated blood lead levels.

Imminent danger - A condition or practice which exists which could reasonably be expected to cause death or serious physical harm either immediately or before the imminence of the danger can be eliminated through enforcement procedures otherwise provided.

Indian country - (ref: 40 CFR 745.323);

- (1) All land within the limits of any American Indian reservation under the jurisdiction of the U.S. government, notwithstanding the issuance of any patent, and including rights-of-way running throughout the reservation;
- (1) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or outside of the limits of a State; and
- (2) All Indian allotments, the Indian titles which have not been extinguished, including rights-of-way running through the same.

Investigation or case - An activity performed by an authorized representative of HHS to ascertain compliance with the Act or associated rules by a person or persons, for which a case number has been assigned. An investigation may or may not include an on-site inspection.

Inspection - A physical visit to a regulated activity site or regulated person's place of business by an authorized representative of the Department to assist in the determination of compliance with the Act or associated rules. If conducted, an inspection will be part of an investigation.

Person - (ref: MCL 333.1106); An individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity, including governmental entities and their subdivisions.

Tips and Complaints - Certification & Accreditation

Tips and complaints are recorded and investigated according to their chronological receipt, nature, and potential for human or environmental health hazards.

1. A staff person receiving a tip or complaint may send a complaint form (DCH-655) to the complainant, or the staff person may complete the complaint form from the complainant's call, if the nature of the complaint allows. Staff shall not guarantee that an informant's identity will be withheld or otherwise protected. Such information may be made available through a Freedom of Information Act (FOIA) request.
2. The complaint information will be entered into the data management system.
3. The Compliance Specialist will review the tip or complaint and determine the need for further action. These include, but are not limited to:
 - Referral of the complaint to another agency.
 - Formal investigation of the allegations.
 - On-site inspection of the regulated activity site.
 - Preparation and mailing of a formal Letter of Inquiry, potentially including a request for company reports and records for audit.
4. The Compliance Specialist will assign the complaint for further action, as appropriate.
5. A copy of the written investigation report will be sent to the complainant upon completion of an investigation, if any.

Field Investigations of Certified Persons & Lead Work Practices

Investigations are conducted as a result of tips/complaints or initiated from target programming criteria. A minimum of two programmed inspections will be conducted per month. When combined with investigations of tips and complaints, compliance staff will attempt to inspect each certified company that is actively performing lead-based paint services at least once every year.

Programmed investigations will be based on the following criteria:

- Notices of noncompliance issued from the previous year.
- Tips or complaints received from the previous year.
- Notifications of lead abatement activities received.
- Reports of LBP Identification Activities submitted. Lead inspection and risk assessment activities are randomly selected from the monthly reports and records reviewed.

Field Audits - Lead Identification Professionals

HHS Compliance staff will routinely conduct over-the-shoulder field audits with professionals in lead identification disciplines (Clearance Technicians, Inspectors, Risk Assessors, EBL-Endorsed Investigators). These audits are a real-time evaluation of a professional's compliance with documented methodologies and work practice standards. Enforcement actions may be taken for non-compliance, in accordance with the authorities cited above.

Compliance Audits - LBP Regulated Reports

Compliance audits of risk assessment, lead inspection, EBL environmental investigation, and clearance examination reports will be routinely conducted to determine compliance with work practice standards and regulatory requirements. These audits will not directly involve the certified professional who authored the report, but will be conducted after the report has been prepared, but before substantial hazard control work occurs as a result of it.

Audits - Training Accreditation and Approval

Audits will be scheduled for each accredited training course at least once every 3 years.

Training courses will be selected for audit based on the following:

1. Complaints.
2. Chronological application for course accreditation, based on contingent accreditation status (prior to expiration of 3-year accreditation).
3. Potential problems identified by certification exam results.
4. Accreditation status and scheduling of courses.

An on-site audit shall consist of the following reviews, as determined appropriate by the investigator and program management:

- Training records.
- Facilities
- Instructional curriculum
- Course test administration and security procedures
- Classroom instruction (full course or topic-specific)
- Audio-visual materials
- Course content and learning objectives, including whether classroom instruction is based on the learning goals and objectives
- Topic reviews and testing for student comprehension of the learning objectives in classroom discussions
- Class activities, especially hands-on activities
- Course test

Review forms, specific for the course audited and based on forms DCH-067, 068, 069, 070, 071, will be used for audits.

Sampling and Lab Analysis

Sampling may be conducted by a compliance investigator. For that purpose, all certification & work practices compliance investigators will be certified lead risk assessors.

Lab analyses will be conducted by the Michigan Department of Community Health, Environmental Lead Laboratory, which is NLLAP accredited to accept and analyze paint chip, soil, and dust wipe samples.

Samples shall be taken in accordance with ASTM standard E1727 (soil); ASTM standard E1728 (dust); EPA document EPA 747-R-95-001, "Residential Sampling for Lead: Protocols for Dust and Soil Sampling" (March 1995), Appendix H; or the most current equivalent EPA documented protocols.

Laboratory analysis request forms designated by the laboratory will be completed by field staff for recording samples taken and establishing chain of custody.

Standard Compliance Case Development

The compliance field investigator may initiate or will be assigned an investigation (or case), as a result of direction from program management. The investigation will be assigned a reference number in the following format: 2-digit year, 2-digit sequential number of case for the year, letter of regulated person type (**C**ontractor, **P**rofessional, **T**rainer), HHS certification/accreditation number. Therefore, as an example, case number 0314C-045 would represent the 14th case for year 2003, relating to the contractor with HHS certification no.045.

The investigator will review all applicable documents and case files for historical actions. In the case of an inspection, the investigator will prepare to visit the regulated activity site and/or the regulated person's place of business.

In the case of an on-site field inspection;

1. The investigator will contact an authorized company representative upon entering the site, and present appropriate credentials.
2. An opening conference will be held with the company representative(s) to discuss the purpose, scope, and nature of the investigation.
3. The investigation shall consist of any of the following, as determined appropriate by the field investigator:
 - On-site verification of valid certification card(s) for all individuals performing lead-related activities.
 - On-site compliance evaluation of lead-related work practices.
 - Review of company records, including those which must be retained for work practice standards.
 - Selected aspects of occupational health and safety requirements should be reviewed. Documentable violations will be referred to the Michigan Department of Consumer and Industry Services, Bureau of Safety & Regulation for further action.
4. All pertinent investigation information will be entered on the compliance worksheet
5. (DCH-649).
6. The investigator will review the findings of the investigation with an authorized company representative at the conclusion of the investigation during a closing conference. Violations may be addressed at the time of the conference as 'alleged', and possible outcomes discussed. Compliance field staff shall not indicate specific enforcement actions resulting from the investigation, unless they have identified imminent danger, or other conditions at the site which warrant immediate action, including cessation of operations.
7. If the field investigator determines imminent danger conditions at the site during the investigation, the investigator will immediately issue a stop-work order for lead-based paint operations at that site, and contact the program manager.

Upon completion of the investigation, any alleged violations which have been documented on the compliance worksheet will be categorized by the investigator, using the enforcement actions matrix (DCH-683) as a guide. If the specific violation type is not identified in the matrix, the specific enforcement action will be determined by discussion with program management.

If the proposed enforcement action is a citation, the investigator will complete the appropriate citation worksheet (DCH-657) including calculation of the administrative fine.

The investigator will prepare a written summary of the investigation and findings, and submit to program management for review. The summary will include any enforcement action notices, as appropriate, and will be sent to the investigated party.

Standard Compliance Case Development (con't)

Followup investigations will be conducted based on staffing, and the following priorities:

- corrective actions required from investigation of a child with elevated blood lead levels.
- corrective actions required from willful or repeated violations.
- corrective actions required from serious violations.
- a random selection of actions required from non-serious violations.

Staff shall not discuss the potential outcome of an investigation with outside sources. Legal counsel or management must authorize any discussion of an open investigation.

Statutory authority regarding lead-based paint activity enforcement actions

MCL 333.5466(1) revoke/suspend accreditation for training program, as result of:

- misrepresent contents of training program.
- fail to submit notifications in a timely manner.
- falsify qualifications, or other accreditation-related information.
- fail to comply with training standards.
- fail to comply with statute or rule.
- falsified information on accreditation application used to approve application.

MCL 333.5475(2) deny/revoke/suspend certification, accreditation, license of any entity, as a result of:

- acts which cause persons to be exposed to lead in violation of the rules/statute.
- falsifications of records.
- failure to re-certify/re-accredit.
- misrepresentation of facts on certification/accreditation application.
- permitting non-certified persons to work on lead abatement project.

MCL 333.5476(2) cite for general violation of statute or rule.

Compliance Responses

Formal Letter Of Inquiry

After an attempt has been made to gather information about a complaint or potential violation that does not indicate the need for an on-site inspection, or for which there does not exist sufficient evidence to warrant a more serious action, a letter of inquiry will be sent to the regulated party. A letter of inquiry does not indicate a finding that a violation has occurred.

The letter of inquiry includes:

- written notice of the grounds for an inquiry.
- a request for the regulated party to conduct their own investigation of the matter.
- a request to respond to the Department with findings by a specified date.
- an explanation of the consequences for failure to satisfactorily respond.

Compliance Responses

Enforcement Actions

The Department may take enforcement actions against any person who does not comply with the requirements established by the [Michigan] Lead Abatement Act (sections 333.5451-333.5477 of Act 368 of 1978, as amended) or the Lead Hazard Remediation rules (R325.99101-R325.99409). (Reference: §333.5476(2) of Michigan Compiled Laws).

Enforcement actions consider the nature, extent and potential consequences of the violation, as well as the frequency of violations determined against the regulated party. The greater the potential for harm, the more serious the consequences of the violation, and the more repetitive the nature of violations, the more severe the level of enforcement action taken. The Enforcement Actions Matrix (DCH-0683) will be used as a guide for determining actions to be taken.

Once a violation of the Act or rules has been established with credible evidence, a determination must be made concerning the following enforcement actions to be taken, in order of severity:

Notice of Non-compliance

The Department may issue a Notice of Non-compliance (NON) against a person who violates an other-than-serious requirement of the Act or rules. An NON indicates a finding that a violation has occurred, but the impact of the violation should not result in significant health harm or damage. A package of compliance assistance information will be included with NON's to assist with future compliance. The NON is issued when, on a case-by-case basis, the Department believes compliance may best be achieved by this action. The NON must include written notice of the grounds for the determination, the actions which must taken to achieve compliance, and an explanation of appeal rights. The NON will not include an administrative fine. When a person has been issued repeated NON's for substantially the same infraction, a higher level of enforcement action may be indicated, as determined by the enforcement action matrix.

Citation (serious)

If the violation has been determined to be more grievous and should result in serious health harm or damage, or when a violator has received repeated Notices of Non-compliance (NON) for substantially similar violations, a [serious] citation and administrative fine will be issued.

If the Department provides written notice of the grounds for a citation and an explanation of the process for appeal, the Department may also order any of the following sanctions to a person who violates the Act or rules:

- That a person stop violating a regulatory provision, with specificity.
- That a person implement and comply with a plan of correction provided by the Department or previously submitted by the person and approved by the Department.
- That a person not function as a principal instructor or training manager of a lead training course or program when the person is not approved.
- That a person stop advertising or conducting a training course that is represented as qualifying persons for certification until corrections in content or assessment have been made.
- That a person stop advertising or conducting a training course that is represented as qualifying persons for certification when the course or training provider is not accredited by the Department.
- That a person stop performing or supervising regulated activities for which certification is required until all violations are corrected. This action may require all regulated activities on the premises to cease until violations have been corrected.

More than one sanction may be ordered for any particular violation.

Compliance Responses

Enforcement Actions

(con't)

Denial of certification, accreditation or approval.

If the Department provides the applicant with a written notice of its decision, including the reason for denial and an explanation of the process for appealing a denial, the Department may deny lead-based paint activity certification or accreditation.

In addition to the reasons for denial under sections 5466(1) and 5475(2) of the Lead Abatement Act, the Department may also deny certification, accreditation or approval to any person who is not fit and qualified. In determining whether a person is fit and qualified, the Department shall consider the person's qualifications and any history of civil or criminal violation of statutes or regulations of the United States, this state or any other state substantially related to lead-based paint activities or other environmental remediation.

Suspension of certification or accreditation

If the Department provides written notice of suspension, the grounds for suspension and an explanation of the process for appeal, the Director of the Department of Community Health, or their designee, may suspend a certification or accreditation. Within 72 hours after the suspension order takes effect, the Department shall either permit the resumption of the suspended lead-based paint activity, or initiate revocation of the certification or accreditation.

The Director of the Department of Community Health, or their designee, may summarily suspend a certification when the Department finds that a summary suspension is required to protect the health, safety or welfare of any person. An order summarily suspending certification of a person, and therefore stopping a lead-based paint activity, must be a written order by the Director, or their designee. A finding for summary suspension may be based on, but is not limited to, any of the following:

- A person has committed an action or has created a condition relating to a lead-based paint activity that directly threatens the health, safety or welfare of any person.
- A person has committed a substantial violation, as determined by the Department, of the Act or associated rules, or an order under this section. A substantial violation may include but is not limited to any of the following:
 - Performed work for which certification is required, but for which appropriate certification has not been received.
 - Performed work which requires certification using individuals who have not received appropriate training and certification.
 - Failed or refused to comply with, or to ensure employed or contracted staff comply with, the work practice standards established by rules R325.99101 through R325.99409.

Compliance Responses

Enforcement Actions

(con't)

Revocation of certification or accreditation

If the Department provides written notice of revocation, the grounds for revocation and an explanation of the process for appeal, the Department may revoke a certification or accreditation. Any revocation of a certification or accreditation shall remain in effect until the Department determines that the interests of the residents of the State have been served, but not less than 180 days. A person may re-apply to the Department for certification or accreditation at the end of the 180-day period. A finding for revocation of certification or accreditation may be based on, but is not limited to, any of the following:

- A person has committed an action or has created a condition relating to a lead-based paint activity that directly threatens the health, safety or welfare of any person.
- A person has committed a substantial violation, as determined by the Department, of lead-based paint regulations or an order resulting from actions taken in accordance with the regulations. A substantial violation may include, but is not limited to, any of the following:
 - Willful or negligent acts that cause a person to be exposed to lead-containing substances in violation of the Lead Abatement Act or associated rules.
 - Deliberate falsification of records or application information.
 - Permitting a person who has not received proper training and certification to participate in or supervise a lead-based paint activity.

Multiple Enforcement Actions.

There may be instances when the facts of a particular situation will suggest more than one enforcement action should be taken. The use of multiple remedies should be reviewed with the Program Manager.

When multiple enforcement actions are taken, cite all instances of noncompliance. If citations are to be issued because of repeated violations, attach the previous citations and the latest documentation of the substantially similar type of violation to the compliance worksheet for enforcement action.

Whenever an investigation identifies multiple violations, some of which would merit a Notice of Non-compliance, while others would merit serious citations and administrative fines, an NON should be issued for the lesser violations and a citation and fines for the more serious violations. Violations of similar provisions may be grouped for purposes of calculation of administrative fines.

Simultaneous civil and criminal enforcement proceedings are possible. However, if it is necessary to take simultaneous criminal and civil enforcement actions, such proceedings should not unfairly prejudice the defendant.

Criminal Sanctions

The [Michigan] Lead Abatement Act of 1998, as amended, establishes that any person who engages in a lead-based paint activity and who willfully or repeatedly violates the Act or rules, or a person who fails to correct the violation after notice from the department is guilty of a misdemeanor, punishable by a fine of not more than \$5,000.00 for the first offense, not more than \$10,000.00 for the second and subsequent offenses, or imprisonment for not more than 6 months, or both. Violations of this type may be prosecuted by the Attorney General or the prosecuting attorney of the judicial district in which the violation occurred.

Cases involving potential criminal actions are referred to the Attorney General's office via the Department's legal counsel.

Persons Against Whom Enforcement Actions May be Taken

Persons who are regulated under the Michigan Lead Abatement Act (MCL 333.453-5471) and associated rules are those who offer, perform, or supervise lead-based paint activities; and persons who offer or conduct training that qualifies an individual for certification to perform lead-based paint activities. Lead abatement contractors and professionals are certified; training programs and courses are accredited; and training managers and principle instructors are approved. A certified individual may be affiliated with a specific certified lead abatement contractor or accredited training provider.

The Department reserves the right to exercise its enforcement discretion when taking enforcement actions against potentially responsible person or persons. In determining the appropriate respondent for an enforcement action, consideration will be given to the person who has direct control over the lead-based paint activity or training involved, and who should be aware of lead-based paint regulations. Administrative fines may be levied against individuals or firms.

For noncompliance regarding issues of certification, an enforcement action generally will be taken against an individual, with a copy to the employing firm.

For noncompliance regarding regulated work practices or responsibilities (including the use of certified individuals for lead-based paint activities), an enforcement action generally will be taken against the employer responsible for the violation. The responsible individual should be referenced by name, and should be copied. The certified lead abatement contractor has a vicarious liability for the acts of its employees, and has responsibility to ensure compliance with regulations.

For noncompliance regarding accreditation, including training manager approval, an enforcement action generally will be taken directly against the owner of the training program, with a copy to the training manager, if appropriate. Any responsible individual should be referenced by name. The training manager has been assigned responsibility to ensure that the training course and training staff comply with regulations, but this does not alleviate owner from responsibility.

For noncompliance regarding principal instructor approval requirements, an enforcement action generally will be taken against the training program owner for courses the instructor teaches.

In the case of a repeated violation, where a notice of noncompliance (NON) has been issued previously to an employee of a lead abatement contractor or training provider, and evidence demonstrates that the employee was responsible for the repeated non-compliance, consideration will be given to naming the employee as the respondent.

Administrative Fines

Section 333.5476(1) of the Lead Abatement Act of 1998, as amended, establishes the right of the Department to levy administrative fines as a part of an enforcement action, to institute correction of hazardous conditions and to encourage future compliance.

Modeled after EPA guidelines for assessment of civil penalties under Section 16 of the Toxic Substances Control Act (TSCA), administrative fines are determined in two stages:

Stage 1. Determination of the gravity-based penalty (GBP)

The following factors determine the GBP:

- **Nature of the Violation** relates to the character of the violation, whether it be of a hazard control, hazard assessment, or documentation nature.

- **Circumstances of the Violation** reflects the probability of the violation to harm either persons or the environment. Circumstances are categorized at four levels of probability associated with the characteristics of the violation:

 - Level 1 - Egregious (flagrant) violations that have caused harm or have a high probability of harm.

 - Level 2 - Non-egregious serious violations that have caused harm or have a high probability of harm.

 - Level 3 - Violations that have a moderate probability of harm.

 - Level 4 - Violations that have a low probability of harm, some administrative violations.

 - Level 5 - Administrative only

- **Extent of harm** which is likely to occur to persons or the environment resulting from the violation. This factor deals only with those violations associated with abatement activities (as shown in the enforcement actions matrix), and describes the degree, or severity of the harm caused by the violation. Since the focus of compliance with lead hazard remediation regulations is to prevent childhood lead poisoning, the extent is determined by three factors, according to the occupancy of the dwelling involved:

 - Minor extent - No children (18 years of age and younger) occupying the premises.

 - Substantial extent - Premises occupied by children 6 -17 years of age.

 - Major extent - Premises occupied by children 6 years of age or less, or pregnant women.

 - (Note: "occupied" has the same definition as 40 CFR 745.223)*

- **Repetitive nature** indicates that an enforcement action has been taken against a person for a substantially similar violation within a three year (36 month) period.

Stage 2. Adjustments to the gravity-based penalty

Adjustment factors include:

- **Attitude.** Fines may be reduced up to 20% (total), as follows:

 - for cooperation, up to 10% reduction.

 - for immediate abatement, up to 10% reduction.

- **Culpability.** For purposes of determining fine amounts:

 - lack of control related to violative conditions, up to 10% reduction.

- **History.** When a violator has a history of prior violations of lead-based paint regulations within a three-year (36 months) period, the proposed penalty may be adjusted upward for repeat citations of a similar nature (as defined in GBP matrix), and 10% for a history of certification suspension. Penalties must sufficiently motivate prior violators to comply in the future.

Adjustments to gravity-based penalty (con't)

- **Size.** Businesses may be eligible for a penalty reduction, based on their number of employees in Michigan. Reductions will be calculated as follows:

- no reduction for greater than 50 employees
- 15% reduction for 21-50 employees
- 30% reduction for 11-20 employees
- 45% reduction for 6-10 employees
- 60% reduction for <5 or less employees

- **Small independent non-lead companies.** For persons who are certified solely for the purpose of conducting LBP activities for their own properties (eg. landlords), the penalty may be reduced as much as 50%.

- **Economic benefit.** A person who has violated lead-based paint regulations may not profit from a violation. The fine must reflect any economic benefit the violator may receive for noncompliance so as to remove the incentive to violate the regulations and to deter non-compliance. Consideration will be made on a case-by-case basis to capture the increased economic benefit.

- **Financial status.** Fines will generally not be levied that are clearly beyond the financial means of the violator. Upon the person's appeal of an administrative fine, the department may review the person's financial records and reports to determine the appropriateness of a penalty in relation to the violator's ability to pay. Under some circumstance, it may be appropriate to levy a fine that may prevent the violator from continuing in business, as with a long history of non-compliance, or total disregard for compliance. In such cases, it would be inappropriate to reduce the fine, since less severe measures would probably be ineffective.

Appeals

Rule 325.99104 provides for any person who is aggrieved by specific enforcement actions taken by the Department to an administrative hearing, held in accordance with the Administrative Procedures Act of 1969, being §§24.201 to 24.328 of the Michigan Compiled Laws. Request for a hearing must be made in writing, no later than 15 working days after receipt of a notice of enforcement action, notice of revocation or suspension, or date of informal pre-hearing conference should that pre-hearing conference fail to resolve outstanding issues. The request must be sent to the Michigan Department of Community Health Administrative Tribunal, P.O. Box 30763 Lansing, Michigan 48909. Questions regarding hearings may be directed to the above address, or by telephone [toll-free] at (877) 833-0870.

In an effort to facilitate mutually agreeable corrective measures required by specific enforcement actions, the aggrieved party may request an informal pre-hearing conference with representative(s) from the Department. Written requests for pre-hearing conferences must be made within the 15-day appeal period to:

Section Manager
Healthy Homes Section
Michigan Department of Community Health
P.O. Box 30195
Lansing, MI 48909
(517) 335-9390

The pre-hearing conference will be scheduled as soon as practicable at the main office of the Healthy Homes Section. Written responses to the appeal issues will be sent to the aggrieved party by the department representative within 10 working days of the date of completion of the conference. If the topics of appeal have been mutually resolved, the administrative hearing request will be withdrawn. If mutual resolution cannot be established by the pre-hearing conference, the administrative hearing will be held as scheduled.

Compliance Assistance

The Healthy Homes Section provides the regulated community with information necessary to ensure compliance with the Lead Abatement Act and associated rules administered by this program to protect the health, safety and welfare of State citizens, as follows;

1. A summary of rules impacting certified individuals is included in certification and accreditation application packets.
2. Provide consultant reviews of first-time risk assessments and abatement reports.
3. A packet of pertinent regulatory information is included with Notices of Non-compliance and notices of enforcement actions.
4. Information about revised regulations is made available to certified lead professionals and firms as soon as possible after a revision becomes effective.
5. Annual training provider workshops are held to update them on regulations, new technology and research results and to advise them of problem areas identified through enforcement actions, inquiries, or certification examination results. Providers should cover this information in refresher courses, as appropriate, and revise and update their initial courses to incorporate new information.
6. Training and technical assistance is provided to local health agencies through monthly meetings.
7. Participate in the annual state lead week activities.
8. Outreach and compliance materials distributed as follows:
 - In response to inquiries from the public and regulated community; Information Request form, DCH-668
 - At professional conferences, trade shows, home shows, etc.
 - In conjunction with staff presentations.
8. Speak at professional and trade meetings, conferences, etc.
9. Promptly respond to phone calls and written inquiries.
10. Publication and distribution of annual program update.
11. Maintenance of HHS web site.

Section 6b

Lead Hazard Control Rules

DEPARTMENT OF COMMUNITY HEALTH
HEALTH LEGISLATION AND POLICY DEVELOPMENT

LEAD HAZARD CONTROL

Filed with the Secretary of State on September 26, 2007
These rules take effect 15 days after filing with the Secretary of State

By authority conferred on the department of community health by sections 2226, 5461 to 5464, 5466, 5468 to 5470, 5473a, and 5475 to 5477 of 1978 PA 368, and Executive Reorganization Order No. 1996-1, being MCL 333.2226, 333.5461 to 333.5464, 333.5466, 333.5468 to 333.5470, 333.5473a, 333.5475 to 333.5477, and 330.3101.

TABLE OF CONTENTS

Part 1. General Provisions

Scope; application; rescission.....	R325.99101
Definitions.....	R325.99102
Recordkeeping.....	R325.99103
Enforcement actions.....	R325.99104

Part 2. Training Programs

Training program accreditation; disciplines; training manager; principal instructor.....	R325.99201
Training program facilities; course test; skills assessment; course certificate; audits.....	R325.99202
Training records.....	R325.99203
Quality control plan.....	R325.99204
Core lead basics course curriculum.....	R325.99205
Lead Abatement Worker course curriculum.....	R325.99206
Lead Supervisor course curriculum.....	R325.99207
Lead Inspector course curriculum.....	R325.99208
Risk Assessor course curriculum.....	R325.99209
Clearance Technician course curriculum.....	R325.99210
Project Designer course curriculum.....	R325.99211
Accreditation of refresher courses.....	R325.99212
Reaccreditation of training program.....	R325.99213

Part 3. Certified Individuals and Firms

Lead professional certification; disciplines; third party examination.....	R325.99301
Lead professional certification requirements.....	R325.99302
Lead abatement firm certification.....	R325.99303
Recertification.....	R325.99304

Part 4. Work Practice Standards

Standards for lead activities; documented methodologies; <i>de minimis</i> levels.....	R325.99401
Hazard and clearance levels.....	R325.99402
Lead inspection.....	R325.99403
Risk Assessment.....	R325.99404
EBL environmental investigation.....	R325.99405
Lead hazard control activities.....	R325.99406
Clearance procedures.....	R325.99407
Notification.....	R325.99408
Pre-renovation education.....	R325.99409

PART 1. GENERAL PROVISIONS

R 325.99101 Scope; application; rescission.

Rule 101. (1) These rules apply to all activities defined by sections 5451 to 5477 of 1978 PA 368, MCL 333.5451 to 333.5477 and referred to in these rules as the “act.”

(2) These rules provide specifications applicable to lead-based paint activities for all of the following:

- (a) Training program requirements
- (b) Certification requirements.
- (c) Work practice standards.
- (d) Notification requirements.
- (e) Enforcement actions.

(3) These rules replace R325.9901 to R325.9925, which are hereby rescinded.

R 325.99102 Definitions.

Rule 102. (1) As used in these rules:

(a) “EBL environmental investigation” means both of the following:

(i) A study for case management purposes of the living environment of 1 or more children 6 years of age or less with an elevated blood lead level performed by an EBL investigator to identify causative lead exposures.

(ii) The provision of a report by the EBL investigator explaining the results of the study and options for remediation of exposures.

(b) EBL “investigator” means a certified risk assessor who has been endorsed by the department to conduct EBL environmental investigations.

(c) “Emergency renovation operations” means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage.

(d) “Lead hazard control activity” means a measure or set of measures which are designed or performed specifically to reduce or eliminate lead-based paint hazards in target housing and child-occupied facilities. Lead hazard control activity includes, but is not limited to, abatement, interim controls and clearance examinations.

(e) “Pamphlet” means the US EPA’s pamphlet number EPA 747-K-99-001, entitled “Protect Your Family From Lead in Your Home,” or a true

reproduction, or an equivalent pamphlet approved by the department.

(f) “Renovation” means the modification of an existing residential dwelling, or portion thereof, that results in the disturbance of painted surfaces, unless the activity is performed as part of an abatement as defined in the act. Renovation includes, but is not limited to, the removal or modification of building components, surface preparation of painted surfaces, and window or door replacement to improve structural or operational integrity.

(g) “Renovator” means any person who performs for compensation a renovation.

(2) Unless the context dictates otherwise, terms defined in sections 5453 to 5460 of the act have the same meanings when used in these rules.

R 325.99103. Recordkeeping.

Rule 103. (1) A person who is certified by the department, the act, and these rules shall maintain all records required by the act and these rules for not less than 3 years.

(2) A person or individual who prepares a report or plan required by these rules shall maintain the report or plan for not less than 3 years, and shall provide copies of the report or plan not later than 20 business days after completion of the activity for which the report or plan was prepared to both of the following persons:

(a) The building owner.

(b) The person who contracted for the person’s or individual’s services, if different than the owner.

(3) A training program shall maintain the records required by these rules for not less than 3½ years at the address specified on the training program accreditation application.

R 325.99104 Enforcement actions.

Rule 104. (1) Any person who violates the act or these rules or fails to satisfy agreed upon conditions for settlement of a violation shall be subject to 1 or more of the following enforcement actions, as determined by the department:

(a) Notice of noncompliance.

(b) Citation.

(c) Denial of certification or accreditation.

(d) Suspension of certification or accreditation by cease operations order.

(e) Summary suspension of certification or accreditation.

(f) Revocation of certification or accreditation.

(g) Criminal sanction in accordance with section 5477 of the act.

(h) Administrative fines.

(2) The department shall consider the circumstance, extent, probability of harm, and repetitive nature of the violation to determine the degree and severity of enforcement actions taken, including administrative fines.

(3) Not later than 15 working days after receipt of a citation issued under section 5476 of the act, a person who is alleged to have violated the act or these rules may appeal the alleged violation by petitioning the department. If the appeal is not resolved as a result of a pre-hearing conference, the person who is alleged to have violated the act or these rules may then petition the department for an administrative hearing not later than 15 working days after completion of the pre-hearing conference. The department shall conduct an administrative hearing in accordance with 1969 PA 306, MCL 24.201. A citation and associated administrative fine become final if the department does not receive a petition for either a pre-hearing conference or an administrative hearing within the time specified in this subrule of this rule.

PART 2. TRAINING PROGRAMS

R 325.99201 Training program accreditation; disciplines; training manager; principal instructor.

Rule 201. (1) A person may seek accreditation for a training program to offer lead-based paint training courses leading to certification of individuals pursuant to requirements in the act and these rules.

(2) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The name of each principal position, partner, shareholder, member, or owner.

(c) The training program's name, address, and telephone number.

(d) A statement signed by the training program manager certifying that the training program meets

the requirements established by the act and these rules.

(e) A copy of the quality control plan as defined in R325.99204.

(f) The fee required by the act and these rules.

(g) A sample of the training completion certificate required by R 325.99202.

(3) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has demonstrated experience, education, or training in the construction industry and has at least 1 of the following:

(i) Not less than 2 years of experience, education, or training in teaching workers or adults.

(ii) A bachelor's or graduate degree in any of the following:

(A) Building construction technology.

(B) Engineering.

(C) Industrial hygiene.

(D) Safety.

(E) Public health.

(F) Education.

(G) Business administration or program management.

(H) A field related to any of the areas specified in this paragraph.

(iii) Two years of experience in managing a training program specializing in environmental hazards.

(b) Provide that the training manager described in subdivision (a) of this subrule designate a qualified principal instructor for each course who shall possess all of the following qualifications:

(i) Demonstrated experience, education, or training in teaching workers or adults.

(ii) Successful completion of the training course which has been accredited by EPA or EPA-authorized state or tribe, which they intend to instruct.

(iii) Demonstrated experience, education, or training in any of the following:

(A) Lead or asbestos abatement.

(B) Painting.

(C) Carpentry.

(D) Renovation.

(E) Remodeling.

(F) Occupational safety and health.

(G) Industrial hygiene.

(c) Provide that the principal instructor described in subdivision (b) of this subrule be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(4) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in these rules, which documentation is not required to be submitted with the accreditation application but, if not submitted, shall be retained by the training program as required by the recordkeeping requirements of these rules:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting training requirements.

(5) A person may seek accreditation for a training program to offer 1 or more of the following courses for lead-based paint activities:

(a) Core lead basics.

(b) Inspector.

(c) Risk assessor.

(d) Supervisor.

(e) Worker.

(f) Project designer.

(g) Clearance technician.

(6) A person may also seek accreditation for a training program to offer refresher courses for each of the lead-based paint training activities described in subrule (5), of this rule except for core lead basics.

(7) A person seeking accreditation for a training course under subrule (5) of this rule shall submit a written application to the department containing all of the following:

(a) The name of the course for which accreditation is being sought.

(b) A copy of the student and instructor manuals, handouts, and other materials to be used for each course.

(c) A copy of the course agenda for each course, including the length of time spent on each topic.

(d) A description of the facilities and equipment to be used for lecture and hands-on training.

(e) A description of the course examination, including blueprint, length, format, and passing score.

(f) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(g) A course outline describing the location within the course materials of each topic required by these rules.

(h) The fee required by the act.

R 325.99202 Training program requirements; facilities; course test; skills assessment; course certificate; audit by the department.

Rule 202. (1) A training program accredited under section 5462 of the act shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

(2) For each course offered, except the core lead basics course, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program shall successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test to pass a course.

(3) The training manager shall maintain the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in these rules, and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(4) The training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(5) The training program shall issue course completion certificates to each individual who passes the training course. The course completion certificate shall include all of the following:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate (3 years from course completion).

(e) The name, address, and telephone number of the training program.

(f) Expiration date of the individual's eligibility to take the third-party examination (6 months from course completion).

(6) The training manager shall allow the department to audit the training program and courses to verify the contents of the application for accreditation.

R 325.99203 Training records.

Rule 203. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualification of a training manager or a principal instructor.

(b) Current curriculum and course materials and documents reflecting changes made to these materials.

(c) The course test blueprints.

(d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:

(i) The person conducting the hands-on skills assessment.

(ii) The method of grading the hands-on skills.

(iii) A description of the facilities used.

(iv) The pass/fail determination.

(e) The quality control plan.

(f) Any other material that was submitted to the department as part of the program's application for accreditation.

(g) Notifications of course schedules.

(h) Course participant information.

(i) Examination results.

(j) Copies of the certificates issued.

(2) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

R 325.99204 Quality control plan.

Rule 204. The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training

program. The quality control plan shall contain at least both of the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of each principal instructor's competence.

R 325.99205 Core lead basics course requirements.

Rule 205. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for core lead basics:

(a) The training course shall last a minimum of 8 training hours.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The roles and responsibilities of lead-based paint professionals.

(ii) Background information on the nature of lead, its uses, adverse health effects, exposure monitoring methods, and sources of exposure to humans.

(iii) Background information on federal and state regulations and guidance that pertain to lead-based paint activities including generally applicable occupational health and safety standards.

(iv) The requirements and procedures for certification under the lead abatement act and these rules.

R 325.99206 Lead abatement worker training course requirements.

Rule 206. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements in order to become accredited for the discipline of lead worker:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of a lead worker.

(ii) Lead exposure in construction standard, R325.51991 and R325.51992.

(iii) The following topics which have hands-on activities as an integral part of the course:

(A) Lead-based paint hazard control methods, both permanent and temporary, including restricted practices.

(B) Interior dust-lead hazard control methods, both permanent and temporary, and cleanup procedures.

(C) Soil-lead hazard and exterior dust hazard control methods, both permanent and temporary.

(D) Personal protective equipment selection, use, and care.

R 325.99207 Lead abatement supervisor training course requirements.

Rule 207. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements to become accredited for the discipline of supervisor:

(a) The training course shall last a minimum of 8 training hours, with a minimum of 3 hours devoted to hands-on activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of a supervisor.

(ii) Liability and insurance issues relating to lead-based paint hazard control.

(iii) Cleanup and waste disposal.

(vi) Recordkeeping.

(v) The following topics which have hands-on activities as an integral part of the course:

(A) Risk assessment and inspection report interpretation.

(B) The development and implementation of an occupant protection plan and hazard control report.

(C) Lead-based paint hazard recognition and control.

(D) Clearance standards and testing, including retesting procedures.

R 325.99208 Inspector training course requirements.

Rule 208. A training program accredited under section 5462 of the act shall provide a training course that meets the following requirements to become accredited for the discipline of inspector:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 6 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role and responsibilities of an inspector.

(ii) Recordkeeping.

(iii) The following topics which also have hands-on activities as an integral part of the course:

(A) Most current lead-based paint inspection methods, including the selection of rooms and components for sampling or testing.

(B) Documented sampling methodologies, including X-ray fluorescence.

(C) Clearance standards and testing, including random selection of sampling sites and retesting.

(D) Preparation of a final inspection report.

R 325.99209 Risk assessor training course requirements.

Rule 209. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for the discipline of risk assessor:

(a) The training course shall last a minimum of 16 training hours, with a minimum of 6 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all the following course topics:

(i) The role and responsibilities of a risk assessor.

(ii) Sources of environmental lead contamination such as paint, surface dust, soil, water, air, packaging, and food.

(iii) The collection of background information to perform a risk assessment.

(iv) Recordkeeping.

(v) The following topics which have hands-on activities as an integral part of the course:

(A) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards.

(B) Most current sampling methods for other sources of lead exposure.

(C) The interpretation of lead-based paint and other lead sampling results, including applicable state or federal guidance or regulations pertaining to lead-based paint hazards.

(D) The development of lead hazard control options, both permanent and temporary, including operations and maintenance activities.

(E) Preparation of a final risk assessment report.

R 325.99210 Clearance technician training course requirements.

Rule 210. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements become accredited for the discipline of clearance technician:

(a) The training course shall last a minimum of 8 training hours with a minimum of 2 hours devoted to hands-on training activities.

(b) The training course shall include, at a minimum, all of the following course topics:

(i) The role, responsibilities, and limitations of a clearance technician.

(ii) Background information on federal, state, and local regulations and guidance that pertains to non-abatement lead hazard control activities.

(iii) Recordkeeping.

(iv) The following topics which have hands-on activities as an integral part of the course:

(A) Documented lead-based paint clearance sampling methodologies, including visual assessment, and selection of locations and components for sampling.

(B) Clearance standards and testing.

(C) Interpretation of sample results and retesting procedures.

(D) Preparation of the clearance report.

R 325.99211 Project designer training course requirements.

Rule 211. A training program accredited under section 5462 of the act shall provide a training course that meets all of the following requirements to become accredited for the discipline of project designer:

(a) The training course shall last a minimum of 8 training hours.

(b) The training course shall include, at a minimum, all of the following topics:

(i) The role and responsibilities of a project designer.

(ii) The development and implementation of an occupant protection plan for large-scale lead hazard control projects. Hands-on activities shall be an integral part of this topic.

(iii) Lead-based paint hazard control methods, both permanent and temporary, for large-scale lead hazard control projects, including restricted practices

(iv) Interior dust-lead hazard control methods, both permanent and temporary, and cleanup procedures for large-scale lead hazard control projects.

(v) Clearance standards and testing for large-scale lead hazard control projects.

(vi) Integration of lead-based paint hazard control methods with modernization and rehabilitation projects for large-scale lead hazard control projects.

(vii) Preparation of lead hazard control specifications for multi family housing and child-occupied facilities.

R 325.99212 Requirements for accreditation of refresher training.

Rule 212. (1) To become accredited to offer a refresher training course for the disciplines described in R 325.99201, a training program shall ensure that its course of study includes, at a minimum, all of the following:

(a) A review of the curriculum topics of the initial courses prescribed in these rules or other rules promulgated by the department.

(b) An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(c) Current laws and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(d) Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

(2) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding initial training course.

(3) Each refresher course, except for the project designer course, shall last a minimum of 8 training hours. The project designer refresher course shall last a minimum of 4 training hours. The supervisor and project designer refresher courses may be conducted concurrently if the materials for each are adequately covered.

(4) For each refresher course offered, the training program shall conduct a course test at the completion of the course.

(5) A training program's application for accreditation of the refresher course shall include all of the following information:

(a) A copy of the student and instructor manuals to be used for each course.

(b) A copy of the course agenda for each course.

(c) A description of the facilities and equipment to be used for lectures and hands-on training.

(d) A copy of the course test blueprint for each course.

(e) A description of the activities and procedures that shall be used for conducting the assessment of hands-on skills for each course, if applicable.

(f) A copy of the quality control plan as described in R 325.99204.

R 325.99213 Reaccreditation of training program.

Rule 213. (1) A training program seeking to maintain accreditation to offer courses in lead-based paint activities shall annually submit to the department both of the following:

(a) An application containing all of the following information:

(i) The training program's name, address, and telephone number.

(ii) A list of courses for which the program is applying for reaccreditation.

(iii) A description of any changes to the training facility, equipment, course materials, or instructors since the program's last application was approved.

(iv) A statement signed by the program manager stating both of the following:

(A) The training program complies at all times with the requirements of the act and these rules.

(B) The recordkeeping and reporting requirements of these rules shall be followed.

(b) The fee or fees specified in the act and these rules.

(2) A training program seeking reaccreditation under subrule (1) of this rule shall submit the application, including the appropriate fees, not less than 45 days before the expiration date of the previous year's accreditation.

(3) The training program's accreditation shall not expire during the department's review or audit of a timely and sufficient reaccreditation application.

PART 3. CERTIFIED INDIVIDUALS AND FIRMS

R325.99301 Lead professional certification; disciplines; third party examination.

Rule 301. (1) An individual may seek certification by the department under section 5468 of the act to engage in lead-based paint activities in the following disciplines:

(a) Lead worker.

(b) Lead supervisor.

(c) Lead inspector.

(d) Risk assessor.

(e) Clearance technician.

(f) Project designer.

(2) A certified risk assessor may seek endorsement by the department to conduct EBL environmental investigations as an EBL investigator. A certified risk assessor seeking endorsement under this subrule shall submit an application to the department demonstrating

compliance with the requirements of R 325.99302 for EBL investigator.

(3) An individual seeking certification under subrule (1) of this rule to engage in lead-based paint activities shall pay the appropriate fees required under the act and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of R325.99302 for the specific discipline for which certification is sought.

(b) Possession of a valid lead-based paint certification, license, or equivalent, as determined by the department, issued by an EPA lead-based paint training and certification program, or a program that has been authorized by the EPA pursuant to 40 CFR part 745, in the specific discipline for which certification is sought, including successful completion of a third-party examination.

(4) If required by R 325.99302, an individual shall pass an appropriate third-party examination within 6 months after receiving a course completion certificate to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate.

(5) The fees for third-party certification exams shall be each of the following:

(a) Inspector/risk assessor combination \$125.00.

(b) All other examinations \$75.00 per discipline.

(6) An individual who fails to pass the third-party examination after 3 attempts within the 6 months after receiving a course completion certificate shall retake the appropriate initial training course from an accredited training program before reapplying for certification from the department.

(7) An individual who fails to pass the third-party examination within 3 years after completing the initial accredited training course shall retake the appropriate initial course from an accredited training program before applying for certification from the department.

(8) After an individual submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements, and passes the appropriate certification exam, the department shall issue a certification document to the individual in the specific discipline for which certification is sought. To maintain certification, an individual shall be recertified pursuant to R325.99304.

R 325.99302 Lead professional certification requirements; inspector; risk assessor; clearance technician; supervisor; worker; project designer; endorsement as EBL investigator.

Rule 302. (1) Individuals seeking certification as a lead abatement worker under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete both of the following courses:

- (i) An accredited core lead basics course.
- (ii) An accredited training course for lead abatement workers.

(b) Pass the third-party examination for lead abatement worker. Additional experience or education is not required.

(2) Individuals seeking certification as a lead abatement supervisor under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete all of the following courses:

- (i) An accredited core lead basics course.
- (ii) An accredited training course for workers.
- (iii) An accredited training course for supervisors.

(b) Pass the third-party examination for supervisor.

(c) Have either of the following:

- (i) Not less than 1 year of experience as a certified lead abatement worker.
- (ii) Not less than 2 years of experience in a related field, for example, lead, asbestos, environmental remediation work, building construction, or the building trades.

(3) Individuals seeking certification as a lead inspector under section 5468 of the act shall meet all of the following requirements:

(a) Possess a high school diploma, or equivalent.

(b) Successfully complete both of the following courses:

- (i) An accredited core lead basics course.
- (ii) An accredited training course for inspectors.

(c) Pass the third-party examination for lead inspector. No additional experience is required.

(4) Individuals seeking certification as a lead risk assessor under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete all of the following:

- (i) An accredited core lead basics course.
- (ii) An accredited training course for inspectors.
- (iii) An accredited training course for risk assessors.

(b) Pass the third party examinations for both inspector and risk assessor, or a combination thereof, as determined by the department.

(c) Have any 1 of the following:

(i) Possess a bachelor's degree, and have not less than 1 year of experience in a related field, for example, lead, asbestos, building construction, or environmental remediation work.

(ii) Possess an associate's degree, and have not less than 2 years of experience in a related field, for example, lead, asbestos, building construction, or environmental remediation work.

(iii) Possess a high school diploma or equivalent and have not less than 3 years of experience in a related field, for example lead, asbestos, building construction, or environmental remediation work.

(iv) Be certified or registered as any 1 or more of the following:

- (A) Industrial hygienist.
- (B) Safety professional.
- (C) Professional engineer.
- (D) Nurse.
- (E) Sanitarian.
- (F) Architect.

(G) Other related field, as determined by the department.

(5) Individuals seeking certification as a lead clearance technician under section 5468 of the act shall meet all of the following requirements:

(a) Successfully complete both of the following courses:

- (i) An accredited core lead basics course.
- (ii) An accredited training course for clearance technicians.

(b) Pass the third-party examination for clearance technician.

(c) Possess either of the following:

- (i) A high school diploma, or equivalent.
- (ii) Not less than 1 year experience in a related field, for example, lead remediation work, building construction, building trades, or structural inspection of residential dwellings.

(6) Individuals seeking certification as a lead project designer under section 5468 of the act shall meet all of the following requirements:

(a) Possess a current certification from the department for lead supervisor.

(b) Successfully complete an accredited training course for project designers.

(c) Have either of the following:

(i) Not less than 4 years of experience in building construction and design or a related field.

(ii) Possess a bachelor's degree in engineering, architecture, or a related profession and not less than 1 year of experience in building construction and design or a related field.

(7) Individuals seeking endorsement as EBL investigator shall meet both of the following requirements:

(a) Possess a current certification from the department as risk assessor.

(b) Pass a written proficiency examination for EBL investigator.

(8) The department recognizes the following documents as evidence of meeting the requirements specified in this rule:

(a) Official academic transcripts or diploma as evidence of meeting the education requirements.

(b) Resumes, letters of reference, or documentation of work experience as evidence of meeting the work experience requirements.

(c) Course completion certificates from lead-specific or other related training courses issued by accredited training programs as evidence of meeting the training requirements.

R 325.99303 Lead abatement firm; certification.

Rule 303. (1) A person seeking certification by the department under section 5469 of the act to engage in lead abatement activities as a lead hazard control firm shall pay the appropriate application fee and submit an application to the department including all of the following information:

(a) Corporate identification number, certificate of sole proprietorship, or other business entity documentation acceptable to the department.

(b) Indication of applicant's liability insurance, if any.

(c) Proof of Michigan workers' compensation liability insurance.

(d) Proof that each employee or agent involved in lead-based paint activities has received training and certification as required by the act.

(e) If applicable, the name of each principal partner, shareholder, member, or owner.

(2) Not more than 90 days from the date of receipt of the person's completed application, the department shall approve or disapprove the person's request for certification as a lead hazard control firm. Within that time period, the department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

R 325.99304 Recertification.

Rule 304. (1) In accordance with the act, a person or firm seeking to maintain certification to engage in lead abatement activities shall annually submit to the department, on forms provided by the department, all required information and pay the appropriate fees.

(2) Individuals seeking to engage in lead-based paint activities shall recertify with the department every 3 years.

(3) Persons seeking recertification under subrule (2) of this rule shall successfully complete an accredited refresher training course for the discipline for which they seek recertification, and successfully pass the third-party examination for that discipline within 6 months after completion of the training course. Individuals seeking to maintain certification as risk assessor must complete both the inspector and risk assessor refresher training courses, and pass both the inspector and risk assessor third-party examinations or a combination thereof.

(4) A person shall not be required to retake the core lead basics course in order to be eligible for recertification.

(5) Persons seeking to maintain endorsement to conduct EBL environmental investigations shall reapply to the department every 3 years.

(6) Person or persons who have failed to satisfy all agreed upon conditions for settlement of violations of the act or these rules may be denied recertification under this part.

PART 4. WORK PRACTICE STANDARDS

R 325.99401 Work practice standards for conducting lead-based paint activities; documented methodologies; *de minimis* levels.

Rule 401. (1) Only a certified individual may perform any of the following lead-based paint activities:

(a) A lead-based paint investigation.

(b) A lead abatement activity.

(c) An EBL environmental investigation.

(d) Clearance procedures.

(2) A certified individual shall perform an activity listed in subrule (1) of this rule in accordance with

these rules and 1 or more of the following documented methodologies:

(a) The United States department of housing and urban development (HUD) publication entitled "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing." A copy of this document may be obtained at no charge as of the date of adoption of these rules from HUD USER, P.O. Box 6091, Rockville, Maryland 20849; or www.hud.gov/offices/lead.

(b) Part 35 of title 24 of the code of federal regulations, entitled "Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance." A copy of this document may be obtained at no charge as of the date of adoption of these rules from HUD USER, P.O. Box 6091, Rockville, Maryland 20849; or www.hud.gov/offices/lead.

(c) The American society for testing and materials' (ASTM) publication entitled "Standard Practices for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques," standard number E1727. A copy of this document may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copyright fee shall be charged by ASTM for this document, as of the date of adoption of these rules.

(d) The ASTM's publication entitled "Standard Practices for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques," standard number E1728. A copy of this document may be obtained from the American society for testing and materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428. A copyright fee shall be charged by ASTM for this document, as of the date of adoption of these rules.

(e) Michigan Department of Community Health document, entitled, "Environmental Investigations for Children with Elevated Blood Lead Levels," and herein referred to as the EBL field guide. A copy of this document may be obtained at no charge as of the date of adoption of these rules from the Michigan Department of Community Health, Healthy Homes Section, 201 Townsend Street, Lansing, Michigan 48913, or www.michigan.gov/leadsafe.

(3) Only an appropriate certified lead professional shall conduct any paint, dust, or soil sampling or testing as part of an activity described in subrule(1) of this rule. The certified professional shall use

documented methodologies that incorporate adequate quality control procedures.

(4) Analytical procedures and facilities recognized by the EPA as capable of performing analyses for lead compounds in the applicable matrix shall be used to determine if any paint chip, dust, or soil samples collected as part of an activity described in subrule (1) of this rule contain detectable levels of lead that may be quantified numerically.

(5) Composite dust or paint samples shall not be used.

(6) Notification and work practice standards required by the lead abatement act or these rules do not apply when treating any of the following amounts of painted surfaces:

(a) Less than 2 square feet of interior painted surface per room, stairwell, hallway, porch, or room equivalent.

(b) Less than 20 square feet of painted surface on a building exterior.

(c) Less than 10% of the total surface area of painted surface on any type of interior component with a small surface area.

R 325.99402 Hazard and clearance levels.

Rule 402. (1)The department shall publish clearance levels established for the completion of lead hazard control activities as necessary to comply with corresponding levels established by federal regulations.

(2) Dust-lead hazard levels shall be the same levels as the clearance levels published by the department.

(3) The department shall publish soil-lead hazard levels as necessary for compliance with federal requirements.

R 325.99403 Lead inspection.

Rule 403. (1) Only a person certified by the department as an inspector or risk assessor shall conduct an inspection. The inspector or risk assessor shall conduct the inspection according to this rule.

(2) When conducting an inspection, an inspector or risk assessor shall select the following locations according to documented methodologies and shall test the locations for the presence of lead-based paint:

(a) Each interior and exterior component that has a distinct painting history, except for components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

(b) In a multifamily dwelling or child-occupied facility, each component that has a distinct painting history, and in every common area, except for components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

(3) The certified inspector or risk assessor shall prepare an inspection report for each inspection. The report shall be specific to the structure tested and include all of the following information:

(a) Table of contents.

(b) A plain-language conclusions section, designed to provide easy identification of all lead hazards, shall be positioned prominently near the front of the report. Results included in the conclusions section shall not be used to satisfy requirements for presentation of results described elsewhere in this rule. The conclusions section shall contain all of the following information in tabular format:

(i) Results of any environmental sampling that denote a positive indication of lead paint, grouped by sample methodology.

(ii) Applicable comparison standards.

(iii) Units of measurement.

(iv) A stand-alone description of each sampling location and component.

(c) Date of each inspection.

(d) Address of building.

(e) Date of construction.

(f) Apartment numbers, if applicable.

(g) Name, address, and telephone number of the owner or owners.

(h) Name, signature, and certification number of each certified inspector or risk assessor, or both, conducting testing.

(i) Name, address, and telephone number of the certified person employing each inspector or risk assessor, or both, if applicable.

(j) Each testing method and device and sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any X-ray fluorescence device.

(k) Specific locations of each painted component tested for the presence of lead-based paint.

(l) The results of the inspection expressed in terms appropriate to the sampling method used.

R 325.99404 Risk assessment.

Rule 404. (1) Only a person certified by the department as a risk assessor shall conduct a risk assessment. A risk assessor shall conduct the risk

assessment according to this rule.

(2) The risk assessor shall make a visual inspection for risk assessment of a residential dwelling or child-occupied facility to locate the existence of lead-based paint hazards and assess the extent and causes of the hazards.

(3) The risk assessor shall collect background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to 1 or more children age 6 years and under.

(4) The risk assessor shall test, using documented methodologies, each surface that has deteriorated paint for the presence of lead if the surface is determined to be in poor condition and to have a distinct painting history. A risk assessor shall also test, using documented methodologies, any additional surface for the presence of lead if the surface is determined to be a potential lead-based paint hazard and to have a distinct painting history.

(5) In residential dwellings, the risk assessor shall collect the following dust samples in not less than 6 representative rooms, hallways, stairwells, or room equivalents:

(a) One dust sample from the floor of each selected room, hallway, or stairwell.

(b) One dust sample from a window sill or trough, if available, in each selected room, hallway or stairwell. Dust samples from windows shall be collected by alternating the sill and trough in each room to the extent possible.

(c) If there are less than 6 rooms, hallways, stairwells, or room equivalents in the dwelling, then the risk assessor shall sample all rooms, hallways, and stairwells.

(6) For multifamily dwellings and child-occupied facilities, the risk assessor shall collect the dust samples required in subrule (5) of this rule in each selected unit. In addition, a risk assessor shall collect window and floor dust samples in the following locations:

(a) Common areas adjacent to the sampled residential dwelling or child-occupied facility.

(b) Other common areas in the building where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust, regardless of the current occupancy by children in the dwelling.

(7) For child-occupied facilities, the risk assessor shall collect 1 dust sample from the window sill or

trough and 1 dust sample from the floor in each room, hallway, or stairwell utilized, to the extent defined by a child-occupied facility, by 1 or more children, age 6 and under; and in other common areas in the child-occupied facility where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust to the extent defined by a child-occupied facility.

(8) The risk assessor shall collect soil samples and have the samples analyzed for lead concentrations in the all of following locations:

(a) Exterior play areas where bare soil is present.

(b) Dripline/foundation areas where bare soil is present

(c) Yard locations in addition to those described in subdivisions (a) and (b) of this subrule where the area of bare soil exceeds 9 square feet.

(9) The risk assessor shall compare the lead levels from each sample, as determined by the approved analysis, with applicable hazard levels for lead in paint, dust and soil established in these rules. The risk assessor shall determine a lead hazard for the area represented by each sample which exceeds the hazard levels.

(10) The certified risk assessor shall prepare a risk assessment report which shall include all of the following information:

(a) Table of contents.

(b) A plain-language conclusions section designed to provide the reader with easy identification of all lead hazards shall be positioned prominently near the front of the report. Results included in the conclusions section shall not be used to satisfy requirements for presentation of results described elsewhere in this rule. The conclusions section shall contain all of the following information in tabular format:

(i) Results of any environmental sampling that denotes a lead hazard, grouped by sample methodology.

(ii) Applicable comparison standards.

(iii) Units of measurement.

(iv) A stand-alone description of each sampling location and component.

(c) Date of assessment.

(d) Address of each building.

(e) Date of construction of buildings.

(f) Apartment number, if applicable.

(g) Name, address, and telephone number of each owner of each building.

(h) Name, signature, and certification identification of the certified risk assessor

conducting the assessment.

(i) Name, address, and telephone number of the certified person employing each certified risk assessor, if applicable.

(j) Name, address, and telephone number of each recognized laboratory conducting analyses of collected samples.

(k) Results of the visual inspection.

(l) Testing method and sampling procedure for the paint analysis employed.

(m) Specific location of each painted component tested for the presence of lead.

(n) All data collected from on-site testing, including quality control data, and, if used, the serial number of any X-ray fluorescence device.

(o) All results of approved analysis on collected paint, soil, and dust samples.

(p) Any other sampling results.

(q) Any background information collected under subrule (3) of this rule.

(r) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint or other assessments of lead-based paint-related hazards.

(s) A description of the location, type, and severity of identified lead-based paint hazards, and any other potential lead hazards.

(t) A description of lead hazard control options for each identified lead hazard or potential hazard, and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, then the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

(11) A person shall provide a written disclosure to a client of any affiliation between the person who conducts the inspection, risk assessment, or any part thereof, and the person or persons who conduct the abatement of the same property.

R 325.99405 EBL environmental investigation.

Rule 405. (1) Only an individual endorsed by the department as an EBL investigator shall conduct an EBL environmental investigation. The EBL investigator shall conduct the EBL environmental investigation in accordance with the procedures in the Michigan department of community health document entitled, "Environmental Investigations for Children with Elevated Blood Lead Levels".

(2) The EBL investigator shall prepare an EBL environmental investigation report for each investigation in accordance with pertinent parts of

the field guide, and shall include, but is not limited, the following information:

(a) Potential sources of exposure to lead to 1 or more children age 6 years or less.

(b) Methods of minimizing or eliminating exposures to lead to 1 or more children age 6 years or less.

(3) The EBL investigator shall provide the report required by subrule (2) of this rule to both of the following:

(a) The property owner.

(b) The parent or guardian of the child with an elevated blood lead level, if different than the property owner.

R 325.99406 Lead hazard control activities.

Rule 406. (1) Only an individual who has successfully completed either of the following training courses shall conduct non-abatement lead hazard control activities:

(a) A lead-safe work practices training course approved by HUD.

(b) An accredited lead abatement worker course.

(2) Only an individual certified by the department as a lead worker, lead supervisor, or project designer shall conduct lead abatement activities.

(3) Individuals performing lead hazard control activities shall conduct those activities according to this rule.

(4) A certified supervisor is required for each lead hazard control project. The certified supervisor shall be at the site during all lead abatement activities, and during all setup and cleaning activities for non-abatement lead hazard control work mandated by order of local municipality, government, or court.

(5) The certified supervisor shall ensure that all lead hazard control activities are conducted according to this rule and all other federal, state, and local requirements.

(6) A certified supervisor or project designer shall develop a written occupant protection plan for all lead abatement activities and all non-abatement lead hazard control projects specified in subrule (4) of this rule according to the following procedures:

(a) The occupant protection plan shall be specific to each residential dwelling or child-occupied facility and be developed before the lead hazard control activities begin. The certified supervisor shall maintain the occupant protection plan at

the work site during all lead hazard control activities.

(b) The occupant protection plan shall describe the measures and management procedures that shall be taken during the lead hazard control project to protect the building occupants from exposure to any lead-based paint hazards.

(c) The procedures described in the occupant protection plan shall be implemented during the lead hazard control project.

(7) The certified supervisor shall ensure compliance with all of the following restricted work practices during lead hazard control activities:

(a) Open-flame burning or torching of lead-based paint is prohibited.

(b) Machine sanding or grinding or abrasive blasting and sandblasting of lead-based paint is prohibited, unless the sanding, grinding, blasting, or sandblasting is conducted using HEPA exhaust controls.

(c) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling not more than 2 square feet in any 1 room, hallway, or stairwell or totaling not more than 20 square feet on exterior surfaces.

(d) Operating a heat gun on lead-based paint is permitted only if the temperature designed to be generated by the heat gun is less than 1100 degrees Fahrenheit.

(8) The certified supervisor shall ensure that all materials used to define containment of work areas remain intact until the successful completion of clearance procedures.

(9) If soil abatement is conducted, the contractor shall perform the abatement in either of the following ways:

(a) If soil is removed, replace the lead-contaminated soil with soil having a lead concentration no greater than the soil-lead hazard levels established by these rules for play areas.

(b) If soil is not removed, the lead abatement firm shall permanently cover, as defined in section 5459 of the act, the soil-lead hazard.

(10) If abatement involves encapsulation, then the lead abatement firm shall perform the encapsulation using an encapsulant approved by the department and shall apply encapsulant in accordance with the manufacturer's instructions.

(11) Immediately following an exterior lead hazard control activity, the certified supervisor shall conduct a visual inspection of all horizontal surfaces in the outdoor living areas near the abated surfaces to ensure that visible dust and debris have been removed. In addition, the supervisor shall conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation below any exterior surface abated, or in any areas of bare soil onto which paint chips could reasonably be expected to have been deposited during lead hazard control activities. If visible dust, debris, or paint chips are present, the lead hazard control firm shall remove the visible dust, debris, or paint chips from the site and properly dispose of them according to applicable federal, state, and local requirements.

(12) A certified supervisor or project designer shall prepare a lead hazard control activity report at the completion of each lead hazard control activity. The report shall include, but is not limited to, all of the following information:

(a) Start and completion dates of lead hazard control project.

(b) The name and address of each person performing lead hazard control work and the name of each certified supervisor assigned to the project.

(c) The occupant protection plan prepared under subrule (6) of this rule.

(d) The name, address, and signature of each certified clearance professional conducting clearance sampling and the date of clearance testing.

(e) The results of clearance testing and all soil analyses, if applicable, and the name of each recognized laboratory that conducted the analyses.

(f) A written description of the lead hazard control project, including all of the following:

(i) Hazard control methods used.

(ii) Locations of rooms and components where lead hazard control activities occurred.

(iii) Reason for selecting particular lead hazard control methods for each component.

(iv) Any suggested monitoring of remaining lead-based paint or enclosed or encapsulated surfaces.

R 325.99407 Clearance procedures.

Rule 407. (1) A clearance examination shall be performed in target housing and child-occupied facilities following all lead hazard control activities.

(2) Only a certified inspector or risk assessor shall perform clearance procedures following abatement.

(3) A certified clearance professional who is completely independent of the lead hazard control firm shall conduct clearance procedures following any lead hazard control activity according to the following procedures:

(a) Conduct a visual inspection for clearance testing to determine if deteriorated painted surfaces described in the scope of hazard control work, or visible amounts of dust, debris, or residue are still present. If deteriorated painted surfaces described in the scope of hazard control work, or visible amounts of dust, debris, or residue are present, then the person conducting the lead hazard control activity shall eliminate the conditions before continuing the clearance procedures.

(b) After the visual inspection and any post-project cleanup required by subdivision (a) of this subrule, an independent clearance professional shall conduct clearance dust-lead sampling. Clearance sampling shall be conducted as appropriate based upon the extent or manner of lead hazard controls conducted in or to the residential dwelling or child-occupied facility. All of the following provisions apply to lead hazard control clearance sampling:

(i) After conducting lead hazard control activities using containment of work areas, the clearance professional shall take 1 dust sample from 1 window, if available, and 1 dust sample from the floor of not less than 4 rooms, hallways, stairwells, or room equivalents within the containment area. Dust samples from windows shall be collected by alternating the sill and trough in each room, to the extent possible. In addition, the clearance professional shall take 1 dust sample from the floor outside the containment area. If there are less than 4 rooms, hallways, stairwells, or room equivalents within the containment area, then the clearance professional shall sample all rooms, hallways, and stairwells.

(ii) After conducting hazard control activities with no containment, the clearance professional shall take 1 dust sample from 1 window, if available, and 1 dust sample from the floor of not less than 4 rooms, hallways, stairwells, or room equivalents in the residential dwelling or child-occupied facility, to include sleeping areas of 1 or more children, 6 years of age or less. Dust samples from windows shall be collected by alternating the sill and trough in each room, to the extent possible. If there are less than 4 rooms, hallways, stairwells, or room equivalents within the residential dwelling or child-

occupied facility, then the clearance professional shall sample all rooms, hallways, and stairwells.

(iii) The clearance professional shall take dust samples for clearance purposes using documented methodologies that incorporate adequate quality control procedures.

(iv) The clearance professional shall take dust samples for clearance purposes not less than 1 hour after completion of final lead hazard control cleanup activities.

(c) The clearance professional shall select the rooms, hallways, stairwells, or room equivalents for sampling according to documented methodologies, as is defined in rule 325.99401(2).

(d) The certified clearance professional shall compare the residual lead level, as determined by appropriate analysis, from each dust sample with applicable clearance levels for lead in dust. If the residual lead levels in a dust sample exceed the clearance levels, then the person conducting the lead hazard control activity shall reclean, and the clearance professional shall retest all the components represented by the failed sample until clearance levels are met.

(4) For multifamily dwellings and child-occupied facilities, the clearance professional shall collect the dust samples required in subrule (3) of this rule in each selected unit. In a multifamily dwelling that has more than 4 similarly constructed and maintained residential dwelling units, a certified inspector or risk assessor may conduct random sampling, in accordance with documented methodologies, for the purpose of clearance sampling, only if all of the following provisions are satisfied:

(a) The certified individuals who abate or clean the residential dwelling units do not know which residential dwelling will be selected for the random samples.

(b) A sufficient number of residential dwelling units are selected for dust sampling to provide a 95% level of confidence that not more than 5% or 50 of the residential dwelling units, whichever is smaller, in the randomly sampled population exceed the appropriate clearance levels.

(c) The randomly selected residential dwelling units are sampled and evaluated for clearance according to the procedures in this subrule.

(d) The similarly constructed and maintained residential dwelling units from which the sampled units are to be selected may not be re-occupied at any time following the completion of the hazard

control activities until the successful completion of clearance procedures.

(5) For clearance sampling in multi-family dwellings and child-occupied facilities, a risk assessor or inspector shall also collect window and floor dust samples in the following locations:

(a) Common areas adjacent to the sampled residential dwelling or child-occupied facility.

(b) Other common areas in the building where the risk assessor determines that 1 or more children, age 6 and under, could reasonably be expected to come into contact with dust, regardless of the current occupancy by children in the dwelling.

(6) Following an exterior lead hazard control activity, the certified clearance professional shall conduct a visual inspection of all horizontal surfaces in the outdoor living area closest to the surfaces disturbed by the lead hazard control activities to ensure that visible dust and debris have been removed. The certified clearance professional shall also conduct a visual inspection to determine the presence of paint chips on the dripline or next to the foundation below any exterior abated surface. If visible dust, debris, or paint chips are present, then the person conducting the lead hazard control activity shall remove the visible dust, debris, or paint chips from the site and properly dispose of them according to all applicable federal, state, and local requirements.

(7) A certified clearance technician shall not perform any of the following clearance procedures:

(a) Clearance testing following abatement activities.

(b) Clearance testing in multi family dwellings which are comprised of more than 4 units.

(c) Sampling described in subrule (4) of this rule using random selection of units.

(8) Following clearance testing of lead hazard control activities, the clearance professional shall prepare a clearance report. The clearance report shall include all of the following information:

(a) Address of the unit or units where lead hazard control activities were performed.

(b) The name, address, and phone number of the persons performing the lead hazard control activity.

(c) Start and completion dates of the project.

(d) The name, address, and signature of each certified clearance professional conducting clearance sampling and the date of clearance testing.

(e) The results of clearance testing and the name of each recognized laboratory that conducted the analyses, where applicable.

R 325.99408 Notifications.

Rule 408. (1) Not less than 3 business days before commencing a lead hazard control activity, a person who conducts lead abatement activities shall notify the department, on forms provided by the department, regarding information the department considers necessary to conduct an unannounced site inspection, including schedule changes. The department shall approve emergency notification that is less than 3 business days in the following situations:

(a) In the case of court-ordered lead abatement.

(b) In other cases where the department waives the 3-business-day requirement to protect the health and safety of the public.

(c) In the case of an unavoidable change in a lead abatement activity that occurs less than 3 days before the activity begins.

(2) A person who conducts lead abatement activities shall not provide, in any case, the notification specified in subrule (1) of this rule less than 24 hours before commencing the activities.

(3) A person or individual who provides emergency notification shall receive confirmation of departmental approval of the emergency notification before initiating the activity.

(4) A person or individual who conducts a lead-based paint investigation shall notify the department, on forms provided by the department, regarding information the department considers necessary, by the fifteenth day of the month following the lead-based paint investigation.

(5) A training program that conducts lead training courses in any of the disciplines listed in R 325.99201, whether the courses are initial or refresher, shall notify the department, on forms provided by the department, not less than 7 calendar days before commencing training, regarding information the department considers necessary to conduct an unannounced site inspection. A training program shall also notify the department within 10 calendar days after a course is completed, on forms provided by the department, of the names of course participants and other

information the department deems necessary. Training programs shall notify the department not less than 24 hours in advance of a course cancellation.

R 325.99409 Pre-renovation education.

(1) Not more than 60 days before commencing a renovation activity for compensation in target housing or child-occupied facility, the renovator shall do both of the following:

(a) Provide the owner of the dwelling or facility with US EPA pamphlet number EPA 747-K-99-001, entitled "Protect Your Family From Lead in Your Home," or a true reproduction, or an equivalent pamphlet approved by the department. If the owner does not occupy the dwelling unit, then the person performing renovation shall also provide an adult occupant of the housing unit with the pamphlet.

(b) Obtain a written acknowledgment of receipt of the pamphlet from the owner and, if applicable, the adult occupant of the unit or facility.

(2) If the renovator is unsuccessful in obtaining a written acknowledgment from the adult occupant described in subrule (1) of this rule, then the renovator shall certify in writing both of the following:

(a) The address of the dwelling unit described in subrule (1) of this rule.

(b) That the pamphlet was delivered to the dwelling unit, including the date and method of delivery. If the pamphlet was delivered by mail, then the renovator shall obtain a certificate of mailing not less than 7 days before the renovation.

(3) If the renovator, upon delivery of the pamphlet, is unsuccessful in obtaining a written acknowledgment from the adult occupant, the renovator may self-certify the delivery. The self-certification shall be written and include the reason for lack of success (for example, occupant refuses to sign, no adult occupant available), the method of delivery of the pamphlet, the signature of the renovator, and the date of signature.

(4) Not more than 60 days before commencing renovation activities in common areas of multi-family housing, the renovator shall do all of the following:

(a) Provide the owner with the pamphlet and comply with either of the following:

(i) Obtain, from the owner, a written acknowledgement that the owner has received the pamphlet.

(ii) Obtain a certificate of mailing at least 7 days prior to the renovation.

(b) Notify in writing, or ensure written notification of, each unit of the multifamily housing and make the pamphlet available upon request prior to the start of renovation. Such notification shall be accomplished by distributing written notice to each affected unit. The notice shall describe the general nature and locations of the planned renovation activities; the expected starting and ending dates; and a statement of how the occupant can obtain the pamphlet, at no charge, from the renovator.

(c) Prepare, sign, and date a statement describing the steps performed to notify all occupants of the intended renovation activities and to provide the pamphlet.

(d) If the scope, locations, or expected starting and ending dates of the planned renovation activities change after the initial notification, the renovator shall provide further written notification to the owners and occupants providing revised information on the ongoing or planned activities. This subsequent notification must be provided before the renovator initiates work beyond that which was described in the original notification.

(5) The written acknowledgement required in this rule shall comply with all of the following:

(a) Include a statement recording the owner or occupants name and acknowledging receipt of the pamphlet prior to the start of renovation, the address of the unit undergoing renovation, the signature of the owner or occupant as applicable, and the date of signature.

(b) Be either a separate sheet or part of any written contract or service agreement for the renovation.

(c) Be written in the same language as the contract or agreement for the renovation or, in the case of owner occupied target housing, in the same language as the lease or rental agreement or the pamphlet.

(6) Renovators shall retain, and if requested, make available to the department all records necessary to demonstrate compliance with this rule for a period of 3 years following completion of the renovation activities in target housing or a child-occupied facility.

(7) The following sample language may be used for acknowledgements described in this rule:

(a) I have received a copy of the pamphlet, "*Protect Your Family From Lead In Your Home*", (or equivalent approved by the department) informing me of the potential risk of lead hazard exposure from renovation activity to be performed in my dwelling unit. I received this pamphlet before the work began.

Printed Name and Signature

Date

Unit Address

(b) If an occupant is unavailable for signature or refuses to sign the acknowledgement of receipt of the pamphlet, then the renovator may, under subrule (3) of this rule, self-certify delivery of each instance. The following sample language may be used for self-certification:

(i) Refusal to sign

I certify that I have made a good faith effort to deliver the pamphlet, "Protect Your Family From Lead In Your Home," (or approved equivalent) to the unit listed below at the dates and times indicated, and that the occupant refused to sign the acknowledgement. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Printed Name and Signature

Date

Unit Address

Attempted delivery dates and times:

(ii) Unavailable for signature

I certify that I have made a good faith effort to deliver the pamphlet, "Protect Your Family From Lead In Your Home," (or approved equivalent) to the unit listed below at the dates and times indicated, and that the occupant was unavailable to sign the acknowledgement. I further certify that I have left a copy of the pamphlet at the unit with the occupant.

Printed Name and Signature

Date

Unit Address

Attempted delivery dates and times:

LEAD HAZARD CONTROL DEFINITIONS

Abatement, except as otherwise provided below, means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities, except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units, if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

Accredited training program means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

Adequate quality control means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

Certified abatement worker means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

Certified clearance technician means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

Certified firm means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

Certified inspector means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust and soil for the purpose of abatement clearance testing.

Certified project designer means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

Certified risk assessor means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

Certified supervisor means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

Child occupied facility means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

Clearance levels means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity as listed in rules promulgated by the department.

Clearance professional means 1 or more of the following individuals when performing clearance testing:

- (a) A certified inspector.
- (b) A certified risk assessor.
- (c) A certified clearance technician.

Common area means a portion of a building that is generally accessible to all occupants of the building.

Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

Component or building component means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component includes, but is not limited to, a specific interior or exterior design or structural element or fixture.

Containment means a process to protect workers and the environment by controlling exposure to the dust lead hazard and debris created during abatement.

Course agenda means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

Course test means an evaluation of the overall effectiveness of the accredited training program by testing a trainee's

knowledge and retention of the topics covered during the accredited training program.

Course test blueprint means written documentation identifying the proportion of course test questions devoted to

each major topic in the accredited training program curriculum.

Department means the department of community health.

Deteriorated paint means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

Discipline means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

Distinct painting history means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

Documented methodology means a method or protocol used to do either or both of the following:

- (a) Sample and test for the presence of lead in paint, dust, and soil.
- (b) Perform related work practices as described in rules promulgated under this part.

Dust lead hazard means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

EBL environmental investigation means both of the following:

- (a) A study of the living environment of 1 or more children 6 years of age or less with an elevated blood lead level performed by an EBL investigator to identify causative lead exposures.
- (b) The provision of a report by the EBL investigator explaining the results of the study and options for remediation of exposures.

EBL investigator means a certified risk assessor who has been endorsed by the department to conduct EBL environmental investigations.

Elevated blood level or **EBL** means for purposes of lead abatement, an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

Encapsulant means a substance that forms a barrier between lead-based paint and the environment using a liquid applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

Encapsulation means the application of an encapsulant.

Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

EPA or USEPA means the United States Environmental Protection Agency.

Guest instructor means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

Hands-on skills assessment means an evaluation that tests a trainee's ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

Hazardous waste means waste as defined in 40 CFR 261.3.

Inspection means a surface-by-surface investigation to determine the presence of lead-based paint in target housing or child-occupied facility, and the provision of a report explaining the results of the investigation.

Interim controls means a set of measures designed to temporarily reduce human exposure, or likely exposure, to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

Lead-based paint activity means inspection, risk assessment, and abatement in target housing and child occupied facilities, or in any part thereof.

Lead-based paint hazard means any of the following conditions:

- (a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.
- (b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.
- (c) Any chewable lead-based painted surface on which there is evidence of teeth marks.
- (d) Any other deteriorated lead-based paint in or on any residential building or child occupied facility.
- (e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.
- (f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

Lead-based paint investigation means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

Lead hazard control activity means a measure or set of measures which are designed or performed specifically to reduce or eliminate lead-based paint hazards in target housing and child-occupied facilities. Lead hazard control activity includes, but is not limited to, abatement, interim controls and clearance examinations.

Living area means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children's bedroom.

Multifamily dwelling means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Paint in poor condition means 1 or more of the following:

- (a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.
- (b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.
- (c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

Permanently covered soil means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete, but not including grass, mulch, or other landscaping materials.

Person means an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity or a governmental entity. (*per Sec. 1106 of the Public Health Code*)

Principal instructor means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

Recognized laboratory means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

Reduction means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

Renovation means the modification of an existing residential dwelling, or portion thereof, that results in the disturbance of painted surfaces, unless the activity is performed as part of an abatement as defined in the lead abatement act. Renovation includes, but is not limited to, the removal or modification of building components, surface preparation of painted surfaces, and window or door replacement to improve structural or operational integrity.

Residential dwelling means either of the following:

- (a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.
- (b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Risk assessment means both of the following:

- (a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.
- (b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

Soil lead hazard means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

Target housing means housing constructed before 1978, except any of the following:

- (a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.
- (b) A zero-bedroom dwelling.
- (c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

Third party examination means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

Training curriculum means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

Training hour means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

Training manager means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

Visual inspection for clearance testing means the visual examination of a residential dwelling or a child occupied facility following an abatement procedure designed to determine whether the abatement has been successfully completed and cleaned.

Visual inspection for risk assessment means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.

Section 6c

The Michigan Lead Abatement Act

LEAD ABATEMENT ACT

Act Nos. 219 & 220, Public Acts of 1998
Act No. 644, Public Acts of 2002
Act Nos. 400, 431, 432, 433, 434; Public Acts of 2004
Amendments to Michigan Public Health Code
Act 368 of Public Acts of 1978

PART 54A LEAD ABATEMENT

MCL 333.5451 Short title of part.

Sec. 5451. This part shall be known and may be cited as the “lead abatement act”.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

MCL 333.5452 Words and phrases; meanings.

Sec. 5452. For purposes of this part, the words and phrases defined in sections 5453 to 5460 have the meanings ascribed to them unless the context requires otherwise.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5453 Definitions; A.

Sec. 5453 (1) *Abatement*, except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature,

represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities, except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units, if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

MCL 333.5453 (con=t)

(3) *Accredited training program* means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) *Adequate quality control* means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5454 Definitions; C.

Sec. 5454. (1) *Certified abatement worker* means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

(2) *Certified clearance technician* means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

(3) *Certified firm* means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

(4) *Certified inspector* means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust and soil for the purpose of abatement clearance testing.

(5) *Certified project designer* means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

(6) *Certified risk assessor* means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(7) *Certified supervisor* means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

(8) *Child occupied facility* means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day=s visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002..

MCL 333.5455 Definitions; C.

Sec. 5455. (1) *Clearance levels* means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement activity as listed in rules promulgated by the department.

MCL 333.5455 (con=t)

(2) *Clearance professional* means 1 or more of the following individuals when performing clearance testing:

- (a) A certified inspector.
- (b) A certified risk assessor.
- (c) A certified clearance technician.

(3) *Common area* means a portion of a building that is generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

(4) *Component* or *building component* means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component includes, but is not limited to, a specific interior or exterior design or structural element or fixture.

(5) *Containment* means a process to protect workers and the environment by controlling exposure to the dust lead hazard and debris created during abatement.

(6) *Course agenda* means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

(6) *Course test* means an evaluation of the overall effectiveness of the accredited training program by testing a trainee=s knowledge and retention of the topics covered during the accredited training program.

(7) *Course test blueprint* means written documentation identifying the proportion of course test questions devoted to each major topic in the accredited training program curriculum.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5456 Definitions; D, E.

Sec. 5456 (1) *Department* means the department of community health.

(2) *Deteriorated paint* means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

(3) *Discipline* means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

(4) *Distinct painting history* means the application history, as indicated by its visual appearance or a record of application, over time, of paint or other surface coatings to a component or room.

(5) *Documented methodology* means a method or protocol used to do either or both of the following:

(a) Sample and test for the presence of lead in paint, dust, and soil.

(b) Perform related work practices as described in rules promulgated under this part.

(6) *Dust lead hazard* means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

MCL 333.5456 (con=t)

(7) *Elevated blood level* or *EBL* means for purposes of lead abatement, an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

(8) *Encapsulant* means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(9) *Encapsulation* means the application of an encapsulant.

(10) *Enclosure* means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(11) *EPA* means the United States Environmental Protection Agency.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5457 Definitions; G to I.

Sec. 5457. (1) *Guest instructor* means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

(2) *Hands-on skills assessment* means an evaluation that tests a trainee=s ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

(3) *Hazardous waste* means waste as defined in 40 CFR 261.3.

(4) *Inspection* means a surface-by-surface investigation to determine the presence of lead-based paint in target housing or child-occupied facility, and the provision of a report explaining the results of the investigation.

(5) *Interim controls* means a set of measures designed to temporarily reduce human exposure, or likely exposure, to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; EAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5458

Definitions; L.

Sec. 5458. (1) *Lead-based paint* means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

(2) *Lead-based paint activity* means inspection, risk assessment, and abatement in target housing and child occupied facilities, or in any part thereof.

(3) *Lead-based paint hazard* means any of the following conditions:

- (a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

MCL 333.5458 (con=t)

- (b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

- (c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

- (d) Any other deteriorated lead-based paint in or on any residential building or child occupied facility.

- (e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

- (f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

(4) *Lead-based paint investigation* means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

(5) *Living area* means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children=s bedroom.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5459 Definitions; M to S.

Sec. 5459. (1) *Multifamily dwelling* means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(2) *Paint in poor condition* means 1 or more of the following:

(a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.

(b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.

(c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

(3) *Permanently covered soil* means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete, but not including grass, mulch, or other landscaping materials.

(4) *Person* means that term as defined in section 1106 but including the state and a political subdivision of the state.

(5) *Principal instructor* means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

(6) *Recognized laboratory* means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(7) *Reduction* means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

(8) *Residential dwelling* means either of the following:

(a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.

(b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

MCL 333.5459 (con=t)

(9) *Risk assessment* means both of the following:

(a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.

(b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

(10) *Soil lead hazard* means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; EAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5460 Definitions; T to V.

Sec. 5460. (1) *Target housing* means housing constructed before 1978, except any of the following:

(a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.

(b) A 0-bedroom dwelling.

(c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

(2) *Third party examination* means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

(3) *Training curriculum* means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(4) *Training hour* means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities,

Sec. 5461 (1) A person shall not engage or offer to engage in a lead-based paint activity unless certified in the appropriate discipline under this part. A person conducting a lead-based paint activity shall comply with the standards for performing lead-based paint activities contained in this part and the rules promulgated under this part.

(2) The department shall certify a person applying for certification under this part if that person demonstrates to the department that he or she is licensed, certified, or registered in another state and the standards for obtaining that license, certification, or registration are substantially similar to those imposed under this part.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

MCL 333.5461a. Lead-based paint activities; training program; accreditation required.

Sec. 5461a. (1) A person shall not provide or offer to provide a training program for lead-based paint activities unless the training program is accredited under the appropriate discipline under this part. A person providing an accredited training program shall comply with the standards for accreditation and training certification prescribed in this part and the rules promulgated under this part.

(2) The department shall accredit a training program if the training program is registered by the department under the department's voluntary registration program by August 30, 1998 if the training program submits an application under section 5462.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5462 Lead-based paint activities; training program; accreditation generally.

Sec. 5462. (1) A person may seek accreditation for a training program to offer courses in lead-based activities in 1 or more of the following disciplines:

- (a) Inspector
- (b) Risk Assessor.
- (c) Supervisor.
- (d) Project Designer.
- (e) Abatement Worker/Laborer.
- (f) Clearance Technician.

(2) A person may also seek accreditation for a training program to offer refresher courses for each of the disciplines described in subsection (1).

(3) A person shall not provide, offer, or claim to provide EPA-accredited courses in lead-based paint activities without applying for and receiving accreditation from the department under this part.

MCL 333.5462 (con=t)

(4) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The fee required by section 5471.

(c) The name of each principal position, partner, shareholder, member, or owner.

(d) The training program=s proposed name, address, and telephone number.

(e) A list of courses and disciplines for which it is seeking accreditation.

(f) A statement signed by the training program manager certifying that the training program meets the requirements established by this part and the rules promulgated under this part.

(g) A copy of the student and instructor manuals or other materials to be used for each course.

(h) A copy of the course agenda for each course.

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(j) A copy of the course test blueprint for each course.

(k) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(l) A copy of the quality control plan as defined in rules promulgated by the department.

(5) The department shall approve an application for accreditation of a training program within 180 days after receiving a complete application from the training program if the department determines that the applicant meets the requirements of this part and the rules promulgated under this part. In the case of approval, the department shall send a certificate of accreditation to the applicant. Before disapproving an application, the department may advise the applicant as to specific inadequacies in the application for accreditation or requirements of this part or the rules promulgated under this part, or both. The department may request additional information or materials from the training program under this section. If the department disapproves a training program=s application for accreditation, the applicant may reapply for accreditation at any time.

(6) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has training, education, and experience as described in rules promulgated by the department.

(b) Provide that the training manager described in subdivision (a) designate a qualified principal instructor for each course who has training, education, and experience as described in rules promulgated by the department.

(c) Provide that the principal instructor described in subdivision (b) be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(7) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in rules promulgated by the department, which documentation is not required to be submitted with the accreditation application but, if not submitted, must be retained by the training program as required by the record-keeping requirements contained in this part:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting training requirements.

(8) A training program accredited under this part shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5463

Training program; training hour requirements for accreditation in certain disciplines; rules; course test; hands-on skills assessment; course completion certificates; quality control plan; teaching work practice standards; duties of training manager.

Sec. 5463. (1) A training program accredited under section 5462 shall provide training courses that meet the following training hour requirements in order to become accredited in the following disciplines:

(a) An inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the inspector course.

(b) A risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the risk assessor course.

(c) A supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The department shall promulgate rules to determine the minimum curriculum requirements for the supervisor course.

(d) A project designer course shall last a minimum of 8 training hours. The department shall promulgate rules to determine the minimum curriculum requirements for the project designer course.

(e) An abatement worker course shall last as minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the abatement worker course.

(f) A clearance technician course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules are promulgated, a clearance technician course shall use the curriculum for the lead sampling technician course approved by the EPA under subpart Q of part 745 of title 40 of the code of federal regulations.

(2) The department may promulgate rules to modify 1 or more of the requirements imposed under subsection (1) if changes are needed to comply with federal mandates or for another reason considered appropriate by the department.

(3) For each course offered, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program must successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test in order to pass a course.

(4) The training manager shall maintain the validity and integrity of a hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in rules promulgated under this section and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(5) A training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(6) A training program shall issue course completion certificates to each individual who passes the training course. The course completion certificate shall include:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate.

(e) The name, address, and telephone number of the training program.

(7) The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

MCL 333.5463 (con=t)

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager=s annual review of each principal instructor=s competence.

(8) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities and other standards developed by the EPA pursuant to title IV of the toxic substances control act and considered appropriate or necessary by the department. The work practice standards shall be taught in the appropriate courses to provide trainees with the knowledge needed to perform the lead-based paint activities.

(9) The training manager shall ensure that the training program complies at all times with all of the requirements of this section and the rules promulgated under this section.

(10) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5464

Accreditation of refresher course.

Sec. 5464. (1) A training program may seek accreditation to offer refresher training courses in 1 or more of the disciplines described in section 5462 (1). A training program shall meet those minimum requirements contained in rules promulgated by the department in order to obtain department accreditation.

(2) A training program may apply for accreditation of a refresher course concurrently with its application for accreditation of the corresponding training course pursuant to rules promulgated by the department.

(3) The department shall approve an application for accreditation of a refresher course within 180 days after receiving a complete application. Upon approval, the department shall send a certificate of accreditation to the applicant. Before disapproval, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the continuing education course does not meet the requirements of this part and the rules promulgated under this part, or both. The department may also request additional information or materials retained by the training program. If the department denies a training program's application for accreditation of a refresher course, the applicant may reapply for accreditation at any time.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5465 Reaccreditation of training program.

Sec. 5465. (1) Unless reaccredited, a training program's accreditation under section 5462, including refresher course training accredited under section 5464, expires 1 year after the date of issuance.

(2) A training program seeking reaccreditation shall submit an application to the department no later than 45 days before its accreditation expires.

(3) A training program's application for accreditation shall include any fees and information required pursuant to rules promulgated by the department.

(4) Upon request, a training program shall allow the department to audit the training program to verify the contents of the application for reaccreditation.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5466 Suspension, revocation, or modification of accreditation.

Sec. 5466 (1) The department may, after notice and an opportunity for hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, suspend, revoke, or modify a training program accreditation or a refresher course training program accredited if the department determines that a training program, training manager, or other person with supervisory authority over the training program has done 1 or more of the following:

(a) Misrepresented the contents of a training course to the department or the trainees enrolled in the training program, or both.

(b) Failed to submit required information or notifications in a timely manner.

- (c) Failed to maintain required records.
- (d) Falsified accreditation records, student certificates, instructor qualifications, or other accreditation-related information or documentation.
- (e) Failed to comply with the training standards and requirements of this part and the rules promulgated under this part.
- (f) Failed to comply with a federal, state, or local statute, rule, or regulation involving lead-based paint activities.
- (g) Made false or misleading statements to the department in its application for accreditation or reaccreditation that the department relied upon in approving the application.

(2) In addition to an administrative or judicial finding of a violation, the execution of a consent agreement in settlement of an enforcement action is considered, for purposes of this section, evidence of a failure to comply with the standards and requirement of this part and the rules promulgated under this part or other relevant statutes or regulations involving lead-based paint activities.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5467 Accreditation training program; availability and retention of records; notice of change of address.

Sec. 5467. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

- (a) Each document that demonstrates the qualification of a training manager or a principal instructor.
- (b) Current curriculum and course materials and documents reflecting changes made to these materials.
- (c) The course test blueprint.
- (d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:
 - (i) The person conducting the hands-on skills assessment.
 - (ii) The method of grading the hands-on skills.
 - (iii) A description of the facilities used.
 - (iv) The pass/fail rate.
- (e) The quality control plan.
- (f) The results of the student=s hands-on skills assessments and course tests and a record of each student=s participation, including name, social security number, and score, within 10 calendar days of the last day of the course taken.
- (g) Any other material that was submitted to the department as part of the program=s application for accreditation.

(2) A training program shall retain the records described in subsection (1) for at least 32 years at the address specified on the training program accreditation application.

(3) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address or transferring records from that address.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; EAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5468 Certification to engage in lead-based paint activities; fee; application; requirements for certification in specific discipline.

Sec. 5468. (1) An individual seeking certification by the department to engage in lead-based paint activities shall pay the appropriate fees required under section 5471 and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of this part and the rules promulgated under this part for the particular discipline for which certification is sought.

(b) A copy of a valid lead-based paint activities certification or its equivalent, as determined by the department, from a training program that has been authorized by the EPA pursuant to 40 C.F.R. part 745 along with proof of the applicant=s third part examination results.

(2) Following the submission of an application demonstrating that the requirements of this part and the rules promulgated under this part have been met, the department shall certify an applicant in 1 or more of the following disciplines:

- (a) Inspector.
- (b) Risk Assessor.
- (c) Supervisor.
- (d) Project Designer.
- (e) Abatement Worker.
- (f) Clearance Technician.

(3) Upon receiving the department certification in 1 or more of the disciplines described in subsection (2), an individual conducting lead-based paint activities shall comply with the work practice standards for performing that discipline as established under this part and the rules promulgated under this part.

(4) An individual shall not conduct a lead-based paint activity unless that individual is certified by the department under this section in the appropriate discipline.

(5) An individual shall do all of the following in order to become certified by the department as an inspector, risk assessor, abatement worker, or supervisor:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the third party exam in the appropriate discipline.

(c) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(6) After an individual passes the appropriate certification exam and submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements, and passes the appropriate certification exam, the department shall issue a certificate to the individual in the specific discipline for which certification is sought. To maintain certification, an individual must be recertified pursuant to this part.

(7) An individual shall pass the third party exam within 6 months after receiving a course completion certificate in order to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate. An individual who does not pass the third party exam after 3 attempts shall repeat the appropriate course from an accredited training program in order to be eligible to retake the exam.

(8) An individual shall do both of the following in order to become certified by the department as a project designer:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

MCL 333.5468 (con=t)

(9) After an individual has successfully completed the appropriate training courses, applied to the department, and met the requirements of this part and the rules promulgated under this part, the department shall issue a certificate to the individual in the discipline of project designer. To maintain certification, the individual must be periodically recertified pursuant to this part.

(10) An individual who received training in a lead-based paint activity between October 1, 1990 and March 1, 1999 and an individual who has received lead-based paint activities training at an EPA-authorized accredited training program are eligible for certification by the department under rules promulgated by the department.

(11) In order to maintain certification in a particular discipline, a certified individual shall apply to be recertified in that discipline by the department every 3 years.

(12) An individual shall do both of the following in order to become a certified clearance technician:

- (a) Successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate.
- (b) Pass the third party exam for the discipline of clearance technician.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; EAm. 2002, Act 644, Imd. Eff. December 23, 2002.

**MCL 333.5469 Certification to engage in lead-based paint activities;
employment of certified employees; requirements.**

Sec. 5469. (1) Beginning August 30, 1999, a person shall not perform or offer to perform lead-based paint activities without obtaining certification by the department under this part.

(2) A person seeking certification under subsection (1) shall submit to the department a letter attesting that the person shall only employ appropriately certified employees to conduct lead-based paint activities and that the person and its employees shall follow the work practice standards for conducting lead-based paint activities as established in rules promulgated by the department.

(3) A person seeking certification under subsection (1) shall do all of the following:

(a) Complete the application and pay the appropriate fee accompanied by a corporate identification number, certificate of sole proprietorship, or other business entity documentation acceptable to the department.

(b) Indicate whether the applicant has liability insurance.

(c) Submit proof of Michigan workers= liability insurance.

(d) Submit proof that each employee or agent involved in lead-based paint activities has received training and certification as required by this part.

(e) If applicable, submit the name of each principal partner, shareholder, member, or owner.

(4) Not more than 90 days from the date of receipt of the person=s completed application, the department shall approve or disapprove the person=s request for certification. Within that time period, the department shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(5) A person certified by the department under this section shall maintain all records pursuant to the requirements imposed in rules promulgated by the department.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

MCL 333.5470 Certification in appropriate discipline required.

Sec. 5470. Beginning on March 1, 1999, all lead-based paint activities shall be performed by an individual certified in the appropriate discipline under this part and pursuant to the work practice standards prescribed in rules promulgated by the department.

MCL 333.5471 Training program or refresher courses; fees.

Sec. 5471. (1) Subject to subsection (7), fees for a person accredited or seeking accreditation for a training program offering courses or refresher courses in lead-based paint abatement are as follows:

- (a) Initial application processing fee \$100.00
- (b) Initial accreditation fee..... \$475.00
per discipline
- (c) Reaccreditation fee, annual..... \$265.00
per discipline

(2) Fees for an individual certified or seeking certification to engage in lead-based paint abatement are as follows:

- (a) Initial application processing fee \$25.00
- (b) Certification fee, per year:
 - (i) Inspector \$150.00
 - (ii) Risk Assessor \$150.00
 - (iii) Supervisor \$50.00
 - (iv) Project Designer \$150.00
 - (v) Abatement Worker/Laborer \$25.00
 - (vi) Clearance Technician \$50.00

(3) Fees for a person certified or seeking certification to engage in lead-based paint abatement are as follows:

- (a) Initial application processing fee \$100.00
- (b) Certification fee, per year \$220.00

(4) If the department increases fees under subsection (5), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(5) By August 1 of each year, the department shall provide to the director of the department of management and budget and to the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under this section.

(6) The fees imposed under this part shall not exceed the actual cost of administering this part.

(7) The department may waive the fees for an accredited training program for a person who has demonstrated that no part of its net earnings benefit any private shareholder or individual.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5472 Notice of lead-based paint activity.

Sec. 5472. Before beginning a lead-based paint abatement, a person conducting lead-based paint abatement shall notify the department, on forms provided by the department or through electronic means approved by the department, regarding information the department considers necessary in order to conduct an unannounced site inspection. The person shall send notification not less than 3 business days before commencing the lead-based paint abatement.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5473 Administration and enforcement of part.

Sec. 5473. The legislature shall annually appropriate to the department an amount sufficient to administer and enforce this part. These funds shall be offset by funds received from federal agencies in the form of grants or other funding provisions. All funds generated by this part shall be deposited into the general fund to be used exclusively by the department to carry out the duties and responsibilities of this part. With fees collected pursuant to this part and funds appropriated by the legislature, the department shall conduct compliance activities that assure the quality of training and protection of worker=s and public health and safety. Such activities include, but are not limited to, unannounced inspections of lead abatement project sites.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998.

MCL 333.5473a

**Administration and enforcement of part by department;
rules; establishment of programs; recommendations;
information exempted from disclosure as public record.**

Sec. 5473a. (1) The department shall administer this part and promulgate rules as may be necessary for the administration and enforcement of this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall authorize, coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers, of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.

(3) The department shall establish a program that provides an opportunity for property owners, managers, and maintenance staff to learn about lead-safe practices and the avoidance of creating lead-based paint hazards during minor painting, repair, or renovation.

(4) Not later than January 1, 2000, the department shall recommend appropriate maintenance practices for owners of residential property, day care facilities, and secured lenders that are designed to prevent lead poisoning among children 6 years of age or less and pregnant women. In making its recommendations, the department shall consult with affected stakeholders and shall consider the effects of those maintenance practices on the availability and affordability of housing and credit.

(5) The following information required to be submitted to the department by certified individuals and persons under this part and rules promulgated under this part is exempt from disclosure as a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The name, street address, and telephone number of the owner, agent, or tenant of a residential dwelling where lead-based paint investigations have been conducted.

(b) Information that could be used to identify 1 or more children with elevated blood lead levels that have been reported to the department.

(c) Information contained in an EBL investigation report that could be used to identify 1 or more children with elevated blood lead levels.

History: Add. 1998, Act 219, Imd. Eff. July, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

Establishment of lead poisoning prevention program; components; reports.

Sec. 5474. (1) The department shall establish a lead poisoning prevention program that has the following components:

(a) A coordinated and comprehensive plan to prevent childhood lead poisoning and to minimize exposure of the general public to lead-based paint hazards.

(b) A comprehensive educational and community outreach program regarding lead poisoning prevention that shall, at a minimum, include the development of appropriate educational materials targeted to health care providers, child care providers, public schools, owners and tenants of residential dwellings, and parents of young children. These educational materials shall be made available, upon request, to local and state community groups, legal services organizations, and tenants= groups.

(c) A technical assistance system for health care providers to assist those providers in managing cases of childhood lead poisoning. As part of this system, the department shall require that results of all blood lead level tests conducted in Michigan be reported to the department as provided for in rule and that when the department receives notice of blood lead levels above 10 micrograms per deciliter, it shall initiate contact with the local public health department or the physician, or both, of the child whose blood lead level exceeds 10 micrograms per deciliter.

(2) The department shall report to the legislature by January 1, 1999, and annually thereafter, the number of children through age 6 who were screened for lead poisoning during the preceding fiscal year and who were confirmed to have had blood lead levels above 10 micrograms per deciliter. The report shall compare these rates with those of previous fiscal years and the department shall recommend methods for improving compliance with guidelines issued by the federal centers for disease control and prevention, including any necessary legislation or appropriations.

(3) Not more than 1 year after the effective date of this part, and annually thereafter, the department shall prepare a written report regarding the expenditures under the lead poisoning prevention program including the amounts and sources of money from the previous year and a complete accounting of its use. The report shall be given to the appropriate committees of the legislature and be made available to the general public upon request.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998.

MCL 333.5474a. Childhood lead poisoning prevention and control commission; repeal of section.

Sec. 5474a. (1) Within 30 days after the effective date of this section, the governor shall establish a childhood lead poisoning prevention and control commission within the department of community health. The commission shall consist of the following 9 voting members appointed by the governor with the advice and consent of the senate:

- (a) One member representing the department of community health. The member appointed under this subdivision shall serve as chairperson.
- (b) One member representing the family independence agency.
- (c) One member representing the department of environmental quality.
- (d) One member representing the Michigan state housing development authority.
- (e) One member representing "Get the Lead Out!". The member appointed under this subdivision shall be from a county with a population of more than 500,000 but not more than 700,000.
- (f) One member representing a local health department located in a county with a population of more than 170,000 but not more than 200,000.
- (g) One member representing certified lead-abatement contractors.
- (h) Two members representing the general public. One of the members appointed under this subdivision shall be from a city with a population of 750,000 or more and be a parent of a child who has experienced lead poisoning or a child advocate who has experience with lead poisoning in children. The second member appointed under this subdivision shall represent property owners and developers in this state.

(2) Members of the commission shall serve without compensation but, subject to appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the commission. If a vacancy occurs on the commission, that vacancy shall be filled in the same manner as the original appointment.

MCL 333.5474a (cont)

(3) The childhood lead poisoning prevention and control commission shall conduct at least 2 public hearings to seek input from the general public and all of the following groups or individuals that have an interest in childhood lead poisoning prevention and control:

- (a) The Michigan association of osteopathic family practitioners or its successor organization.
- (b) The Michigan nurses association or its successor organization.

- (c) The Michigan association of nurse practitioners or its successor organization.
- (d) The Michigan association of health plans or its successor organization.
- (e) The Michigan association of local public health or its successor organization.
- (f) Blue cross blue shield of Michigan or its successor organization.
- (g) The Michigan health and hospital association or its successor organization.
- (h) The Michigan head start association or its successor organization.
- (i) The Michigan council for maternal and child health or its successor organization.
- (j) Michigan's children or its successor organization.
- (k) Michigan league for human services or its successor organization.
- (l) Detroit public schools or its successor organization.
- (m) The rental property owners association or its successor organization.
- (n) The Michigan association of general contractors or its successor organization.
- (o) The Michigan association of realtors or its successor organization.
- (p) The Michigan environmental council or its successor organization.
- (q) The Michigan adult blood lead epidemiology and surveillance program or its successor organization.
- (r) The Michigan state university extension program or its successor organization.
- (s) The Detroit lead partnership or its successor organization.
- (t) The Michigan lead safe partnership or its successor organization.
- (u) The Detroit mayor's lead task force or its successor organization.
- (v) United parents against lead or its successor organization.
- (w) The department of education or its successor organization.
- (x) The Michigan department of community health medical services administration or its successor organization.
- (y) The Michigan occupational safety and health administration or its successor organization.
- (z) The Michigan department of community health bureau of laboratories or its successor organization.
- (aa) An occupational and environmental medicine specialist.
- (bb) Parents or patient advocates of children who have experienced lead poisoning.
- (cc) A local housing authority.
- (dd) A community reinvestment officer.
- (ee) The Michigan state medical society or its successor organization.
- (ff) The Michigan academy of family practice or its successor organization.
- (gg) Saint Mary's field neurosciences institute or its successor organization.
- (hh) The American academy of pediatrics or its successor organization.

- (ii) The arc Michigan organization or its successor organization.
- (jj) Any other interested organization or association concerned with the prevention, treatment, and control of lead poisoning that the department determines necessary.

(4) The first public hearing shall be held within 60 days after the commission has been appointed under subsection (1). The commission may hold additional public hearings as it determines necessary or appropriate to carry out its duties under this part.

(5) The commission shall conduct its business at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The commission shall give public notice of the time, date, and place of the meeting in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) The commission shall make available a writing prepared, owned, used, in the possession of, or retained by the childhood lead poisoning prevention and control commission to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

MCL 333.5474a (concluded)

(7) As used in this section, "commission" means the commission created and appointed by the governor under subsection (1).

(8) This section is repealed effective July 1, 2007.

History: Add. 2004, Act 431, Imd. Eff. Dec. 21, 2004

MCL 333.5474b Lead safe housing registry.

Sec. 5474b. (1) The department in cooperation with the family independence agency and the Michigan state housing development authority shall establish and maintain a registry, to be known as the "lead safe housing registry", to provide the public with a listing of residential and multifamily dwellings and child occupied facilities that have been abated of or have had interim controls performed to control lead-based paint hazards as determined through a lead-based paint investigation performed by a certified risk assessor certified under this part.

(2) The owner of target housing that is offered for rent or lease as a residence or the owner of a child occupied facility shall register that property with the department if that property has been abated of or has had interim controls performed to control lead-based paint hazards as determined through a lead-

based paint investigation performed by a certified risk assessor certified under this part in a form as prescribed by the department free of charge. The form shall include, at a minimum, the following:

- (a) Name of the owner of the building.
- (b) Address of the building.
- (c) Date of construction.
- (d) Date and description of any lead-based paint activity including the name of the certified abatement worker or the certified risk assessor certified under this part who performed the abatement or conducted the inspection, lead-hazard screen, assessment, or clearance testing of the building and the results of the lead-based paint activity.

(3) An owner required to register his or her property under subsection (2) shall provide the department with a copy of each report, document, or other information that is required to be filed with the federal government under federal law and regulations related to lead-based paint.

(4) The owner of any other residential or multifamily dwelling that is offered for rent or lease as a residence or the owner of a child occupied facility may register that property with the department and the department shall include that property on the lead safe housing registry. A person who wishes to register under this subsection shall execute and return the registration form to the department with payment of the registration fee in an amount as prescribed by the department.

(5) The department shall publish the lead safe housing registry on its website and provide a copy of the registry to a person upon request. The department may charge a reasonable, cost-based fee for providing copies of the lead safe housing registry under this subsection.

History: Add. 2004, Act 432, Imd. Eff. Dec. 21, 2004

**MCL 333.5474c Environmental threats of lead poisoning to
children; study; report findings; repeal.**

Sec. 5474c. (1) The commission shall study the environmental threats of lead poisoning to children's health, review this state's lead poisoning prevention program, evaluate the effectiveness of that program, including, but not limited to, the ability of the program to satisfy federal law requirements that 100% of all young children enrolled in medicaid shall be screened with a blood lead test, and make recommendations for improvements to that program.

(2) The commission shall consider all information received from its public hearings, review information from other sources, and study the experiences of other states. The commission shall develop short- and long-range strategic recommendations for childhood lead poisoning prevention and control in this state. The recommendations shall include, but are not limited to, strategies to:

MCL 333.5474c (cont)

- (a) Enhance public and professional awareness of lead poisoning as a child health emergency.
- (b) Significantly increase blood lead testing rates for young children.
- (c) Eliminate or manage the sources of lead poisoning, especially focusing on lead-based paint in aged housing.
- (d) Assure state interagency as well as public and private cooperation and communication regarding resolution of this complex environmental and public health problem.

(3) The childhood lead poisoning prevention and control commission shall submit a written report of its findings, including the recommendations under subsection (2), to the governor and the legislature by March 31, 2005 and annually thereafter by March 31 of each year. A representative of the department of community health shall provide testimony summarizing the findings and recommendations of the commission to the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to public health and children.

(4) As used in this section, "commission" means the commission created and appointed by the governor under section 5474a.

(5) This section is repealed effective July 1, 2007.

History: Add. 2004, Act 400, Eff. Dec. 21, 2004

MCL 333.5474c[1] Lead Poisoning Prevention Week.

Sec. 5474c. (1) The legislature recognizes the imminent threats posed to children's health and cognitive development from ingestion of lead paint dust in residential neighborhoods, the broad dispersal of lead-laden soils from historical airborne deposition of leaded fuel emissions, and identified specific facilities that present known or potential lead hazards. The legislature further recognizes the need to educate the citizens of this state regarding those threats.

(2) The legislature declares that October 23 through October 29, 2005 shall be known as the "Lead Poisoning Prevention Week" and for each year thereafter the period beginning on the fourth Sunday of October through the following Saturday shall be known as the "Lead Poisoning Prevention Week".

History: Add. 2004, Act 433, Imd. Eff. Dec. 21, 2004

Compiler's Notes: This added section is compiled as [333.5474c[1] to distinguish it from another

Sec. 5474c deriving from Act 400 of 2004.

MCL 333.5475 Alleged violations or complaints; actions by department.

Sec. 5475. (1) The department shall receive or initiate complaints of alleged violations of this part or rules promulgated under this part and take action with respect to alleged violations or complaints as prescribed by this part.

(2) The department, in its own discretion, or upon the written complaint of an aggrieved party or of a state agency or political subdivision of this state, may investigate the acts of an accredited training program, an individual or other person certified under this part, or a person allegedly engaged in a lead-based paint activity. The department may deny, suspend, or revoke certification or accreditation issued under this part if a certified person, accredited training program, certified individual, or person allegedly engaged in lead-based paint activity is found to be not in compliance with this part or the rules promulgated under this part. In addition, the department may deny, suspend, or revoke a certification or accreditation issued under this part for 1 or more of the following:

MCL 333.5475 (cont)

(a) Willful or negligent acts that cause a person to be exposed to a lead-containing substance in violation of this part, the rules promulgated under this part, or other state or federal law pertaining to the public health and safety aspects of lead abatement.

(b) Falsification of records required under this part.

(c) Continued failure to obtain or renew certification or accreditation under this part.

(d) Deliberate misrepresentation of facts or information in applying for certification or accreditation under this part.

(e) Permitting a person who has not received the proper training and certification under this part or other applicable state or federal law to come in contact with lead or be responsible for a lead abatement project.

History: Add. 1998, Act 219, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002.

**MCL 333.5475a Rental unit containing lead-based hazard;
presumption of actual knowledge; violation; penalties; defense; burden of
proof; definitions.**

Sec. 5475a. (1) A property manager, housing commission, or owner of a rental unit who rents or continues to rent a residential housing unit to a family with a minor child who is found to have 10 micrograms or more of

lead per deciliter of venous blood is subject to the penalties provided under subsection (3) if all of the following apply:

- (a) The property manager, housing commission, or owner of the rental unit has prior actual knowledge that the rental unit contains a lead-based paint hazard.
- (b) At least ninety days have passed since the property manager, housing commission, or owner of the rental unit had actual knowledge of the lead paint hazard.
- (c) The property manager, housing commission, or owner of the rental unit has not acted in good faith to reduce the lead paint hazards through interim controls or abatement or a combination of interim controls and abatement.

(2) A property manager, housing commission, or owner of the rental unit is presumed to have prior actual knowledge that a unit contains a lead-based paint hazard only if 1 of the following applies:

- (a) The property manager, housing commission, or owner of the rental unit signed an acknowledgment of the hazard as a result of a risk assessment under this chapter at the time the risk assessment was made.
- (b) The property manager, housing commission, or owner of the rental unit was served as a result of a risk assessment under this chapter with notice of the hazard by first-class mail and a return receipt of that service was obtained.

(3) A property manager, housing commission, or owner of the rental unit convicted of violating this section is guilty of a crime as follows:

- (a) Except as provided in subdivision (b), the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$5,000.00, or both.
- (b) If the property manager, housing commission, or owner of the rental unit was previously convicted of violating this section or a local ordinance substantially corresponding to this section, the property manager, housing commission, or owner of the rental unit is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$10,000.00, or both.

(4) The property manager, housing commission, or owner of the rental unit may assert 1 or more of the following as an affirmative defense in a prosecution of violating this section, and has the burden of proof on that defense by a preponderance of the evidence:

- (a) That the property manager, housing commission, or owner of the rental unit requested or contracted with a person having responsibility for maintaining the rental unit to reduce the hazard through interim controls or abatement and reasonably expected that the hazard would be reduced.

(b) That the tenant would not allow entry into or upon premises where the hazard is located or otherwise interfered with correcting the hazard.

MCL 333.5475a (cont)

(5) As used in this section:

(a) "Property manager" means a person who engages in property management as defined in section 2501 of the occupational code, 1980 PA 299, MCL 339.2501.

(b) "Lead-based paint hazard" means that term as defined in section 5458 of the public health code, 1978 PA 368, MCL 333.5458.

History: Add. 2004, Act 434, Eff. Jan. 2, 2005

MCL 333.5476 Violation of part; fine; citation; administrative hearing.

Sec. 5476. (1) A person who violates this part or a rule promulgated under this part is subject to an administrative fine up to the following amounts for each violation or each day that a violation continues:

- (a) For a first violation\$2,000.00
- (b) For a second violation.....\$5,000.00
- (c) For a third or subsequent violation\$10,000.00

(2) If the department has reasonable cause to believe that a person has violated this part or a rule promulgated under this part, the department may issue a citation at that time or not later than 180 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation as provided for by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An alleged violator may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: Add. 1998, Act 220, Imd. Eff. July 1, 1998; EAm. 2002, Act 644, Imd. Eff. December 23, 2002.

MCL 333.5477 Violation; failure to correct violation after notice as misdemeanor; sanctions, penalties, or other provisions.

Sec. 5477. (1) A person who engages in a lead-based paint activity as provided for by this part and who willfully or repeatedly violates this part or any rules promulgated under this part, or a person who fails to correct the violation after notice from the department under this part is guilty of a misdemeanor, punishable by a fine of not more than \$5,000.00, and upon conviction for a second or subsequent offense, not more than \$10,000.00, or imprisonment for not more than 6 months, or both. A violation of this subsection may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

(2) The application of sanctions under this part is cumulative and does not preclude the application of other sanctions or penalties contained in provisions of any other federal, state, or political subdivision statute, rule, regulation, or ordinance.

(3) This part does not diminish the responsibilities of an owner or occupant, or the authority of enforcing agents under state, county, city, municipal, or other local building, housing, or health and safety codes.

(4) The requirements of this part are in addition to other pertinent provisions of a code listed in subsection (3).

History: Add. 1998, act 219, Imd. Eff. July 1, 1998; BAm. 2002, Act 644, Imd. Eff. December 23, 2002

Section 7

Program Effectiveness Crosswalk

ANALYSIS OF COMPARATIVE PROGRAM EFFECTIVENESS

The following table outlines USEPA's required program elements for a lead pre-renovation education and enforcement program, Michigan's authority to address these elements; how each element is addressed within the Michigan program; and a description of Michigan's comparative program effectiveness with USEPA requirements.

Element	Michigan, with authority	Element implementation	Comparison
Purpose 40 CFR 745.80	In Michigan's Lead Hazard Control Rules <i>R325.99408(6)(a)</i> states that before doing a renovation project for compensation in Target Housing an EPA pamphlet must be handed out.	Michigan does not have a specific "Purpose" statement but the information is contained in the Pre-renovation section of the Michigan Rules.	At least as protective as the USEPA
Effective Date 40 CFR 745.81	The title page of the Lead Hazard Control Rules states that the revised rules, which include pre-renovation, were filed with the Secretary of State and take effect 15 days after the filing date of 1/12/05.	The rules were published and made available to the public. Also, all certified professionals were mailed a copy with their annual renewal notification in February of 2005.	At least as protective as the USEPA.
Applicability 40 CFR 745.82 All renovation performed for compensation in target housing, with some exceptions.	R325.99101(2)(d) states, "These rules provide specifications applicable to lead-based paint activities for all of the following: ... (d) notification requirements." Re: exceptions: §745.82(b)(1) is covered in R325.99401(6). Exception § 745.82(b)(2) is defined in R325.99.102(c), but is not utilized in the Rules. §745.82(b)(3) is not explicitly stated, but indirectly referenced by R325.99.401(2)(a) referring to the HUD guidelines as the standard methodology.	In Michigan when work any renovation work is being performed on Target Housing the occupant or resident must be notified by receipt of the "Protect Your Family From Lead Poisoning" booklet. If any changes are required in regards to the exceptions they will be dealt with when the Michigan Rules subsequently opened.	Michigan as protective as the USEPA.

<p>Definitions 40 CFR 745.83 Administrator</p>	<p>This definition is not in Michigan's Lead Abatement Act, nor in the Administrative Rules.</p>	<p>It was decided since it was a definition of a Federal position it was not necessary for our State rules. However, the fact that this definition is not included should not be considered a significant deficiency</p>	<p>Less protective than USEPA, but will be addressed when we revise our Act and/or Rules again.</p>
<p>Emergency renovation operations</p>	<p>"Emergency renovation operations" means renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. R325.99102(c)</p>	<p>Adopted USEPA definition</p>	<p>Michigan is as protective as USEPA</p>
<p>Multifamily housing</p>	<p>The Michigan Compiled Law in §333.5459 defines multifamily dwelling as a "structure that contains more than 1 separate residential dwelling unit that is used or occupied...)</p>	<p>In Michigan it was decided to consider everything more than a single family dwelling to be multifamily to eliminate confusion and simplify enforcement.</p>	<p>Michigan Law is more protective.</p>
<p>Pamphlet</p>	<p>R325.99102(e) Michigan defines "Pamphlet" as "...the EPA's pamphlet number EPA 747-K-99-001, entitled "Protect Your Family from Lead in Your Home," or a true reproduction, or an equivalent pamphlet approved by the department." It was not the intent of the State of Michigan to supercede EPA's authority on the production of any new pamphlet. The intent of the "approved by department" statement was to allow the State to more readily adopt subsequent versions or substitutions of EPA approved pamphlets.</p>	<p>Michigan will change its definition of pamphlet to clarify EPA's authority as the approving body for Pre-Renovation Education materials. Michigan will only use the USEPA produced booklet "Protect Your Family From Lead In Your Home" and other booklets produced by EPA for Pre-Renovation Education purposes.</p>	<p>Michigan is as protective as USEPA</p>

Definitions continued			
Person	In Michigan Public Act 368 of 1978, as amended in §333.1106 “person” is defined as “an individual, partnership, cooperative, association, private corporation, personal representative, receiver, trustee, assignee, or other legal entity. In Michigan’s Lead Hazard Control Rules this definition is included in our Lead Hazard Control Definitions, which are attached at the end of the Rules.	The only significant difference is that the EPA definition includes the Federal government in the definition, while the Michigan definition excludes government entities unless specifically provided for.	Michigan is as protective as USEPA
Renovation	Michigan Rules state in the Lead Hazard Control Definitions, R325.99102(f), that “Renovation means the modification of an existing residential dwelling, or portion thereof, that results in the disturbance of painted surfaces, unless the activity is performed as part of an abatement as defined in the Lead Abatement Act.” The EPA term “structure” is considered broader and therefore more protective.	Michigan will modify the definition of Renovation when we open our rules next. We will be opening them to make changes to accommodate RRP Rules. In the interim HHS will refer to EPA for enforcement of those matters that meet the criteria for “structures but may not meet the definition of “residential dwelling.”	Michigan is potentially not as protective as USEPA.
Renovator	“Renovator means any person who performs for compensation a renovation. R325.99102(g)		Michigan is as protective as USEPA.

Confidentiality 40 CFR 745.84	Michigan has no rules or acts regarding requests for confidentiality, but MCL 333.5473a(5) states what information is confidential and cannot be foia’d.	(5)(a) provides protection for the property owner and/or tenant regarding release of information about lead investigation. (5)(b)(c) provides confidentiality for EBL children and EBL investigations.	More protective than USEPA
----------------------------------	--	--	----------------------------

Information Distribution Requirements 40 CFR 745.85	Michigan Lead Hazard Control Rules R325.99409(1)-(5) requires that "Protect Your Family from Lead Poisoning in Your Home" pamphlet be handed out prior to commencing renovation. Written receipt must be obtained, or the renovator must self certify if occupant refuses to sign or is not present.	The Michigan Rules state the EPA pamphlet "Protect Your Family From Lead in Your Home" will be used. R325.99409(6) states that renovators "...must retain, and if requested, make available to the department all records necessary to demonstrate compliance with this rule for a period of 3 years following completion of the renovation activities in target housing , or a child-occupied facility. Sample language for receipt is provided in R325.99409(7)	As protective as the USEPA.
--	--	---	-----------------------------

Recordkeeping Requirements 40 CFR 745.86	Michigan Lead Hazard Control Rules R325.99409(6) Renovators shall retain, and if requested, make available to the department all records necessary to demonstrate compliance with this rule for a period of 3 years following completion of the renovation activities in target housing or a child-occupied facility.	Records requests, on site record reviews, or response to customer complaints.	Michigan is as at least as protective as the USEPA.
---	---	---	---

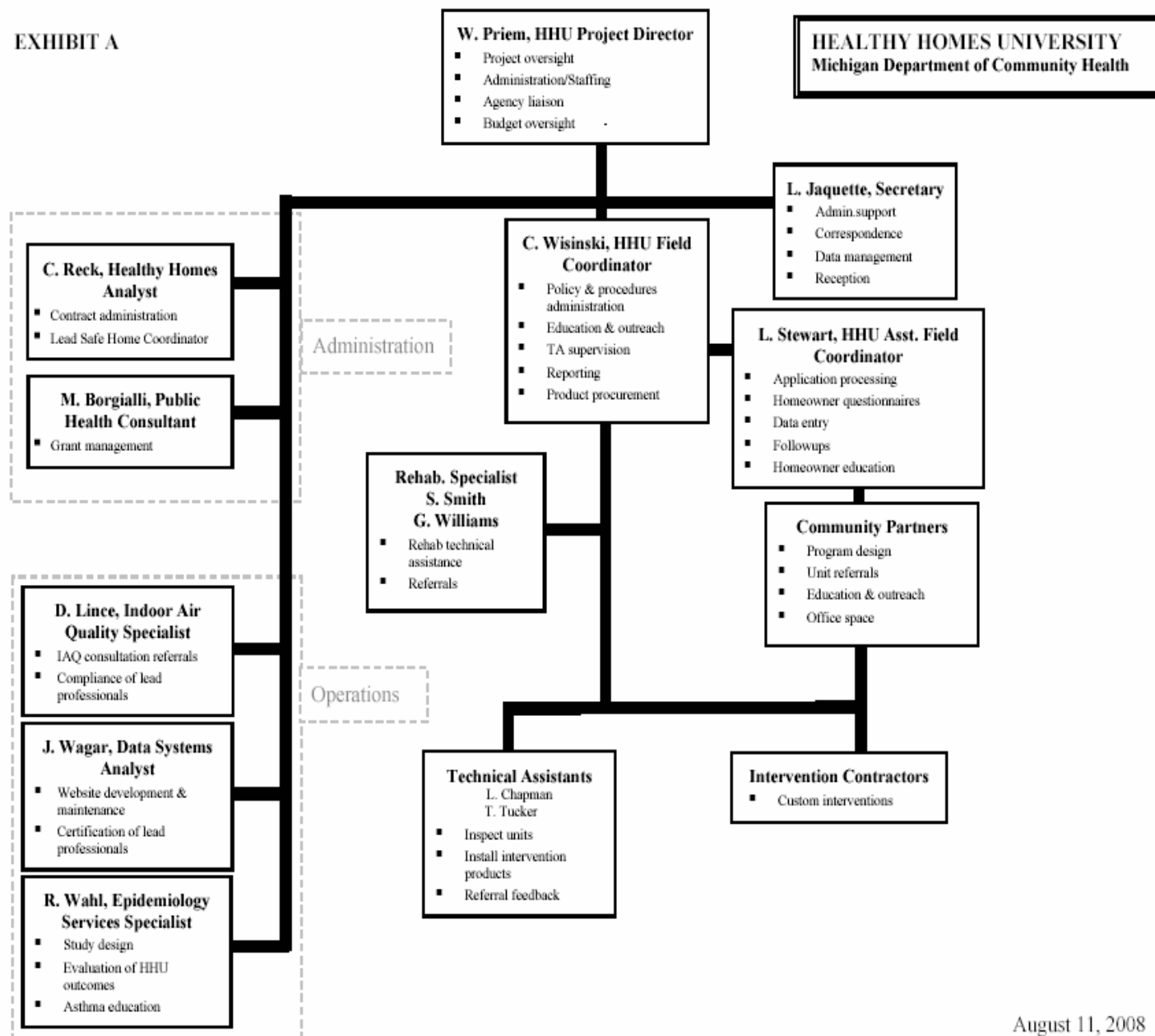
Enforcement and inspections 40 CFR 745.87	Act 368 of the Public Health Code of 1978, as amended 333.2241(1) gives authority to "...inspect, investigate, or authorize an inspection or investigation to be made of any matter, thing, premises, place, person, record, vehicle, incident, or event." Michigan Rules R325.99104(1)(2) list the enforcement actions available to the Healthy Homes Section (HHS). The HHS Compliance Manual also gives guidance for enforcement.	The HHS Compliance Operations Manual details the procedures for performing the enforcement actions. Investigations, record reviews, fines, pre-hearing conferences, an administrative tribunal, and even a search warrant are among the things the department has used for enforcement.	At least as protective as the USEPA.
--	--	---	--------------------------------------

Acknowledge ment and certification statements CFR 40 745.88	Michigan Lead Hazard Control Rules R325.99409(7)	Wording and sample forms are included	At least as protective as the USEPA
---	---	--	--

Section 8

Healthy Homes Section Organizational Chart

EXHIBIT A



August 11, 2008